

AL 14-000-0897

**Congress of the United States**  
**Washington, DC 20515**

October 31, 2013

Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Room 3426 ARN  
Washington, D.C. 20460

Dear Associate Administrator Vaught,

We are writing regarding correspondence from one of our constituents, Mr. David Kruger. Mr. Kruger is the Vice President of AINS, Inc., a business in Maryland's sixth congressional district. I ask that you give full and fair consideration to his concerns.

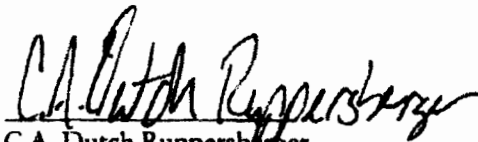
Mr. Kruger has expressed concerns that the Environmental Protection Agency has over 200 unused licenses for FOIAExpress, an AINS product that facilitates the processing of Freedom of Information Act and Privacy Act requests. AINS has suggested a willingness to modify annual maintenance fees in order to ensure that FOIAExpress licenses are used. Mr. Kruger believes that the re-deployment of FOIAExpress is an appropriate and economical choice for the EPA.

We have enclosed a copy of Mr. Kruger's correspondence for your consideration. We appreciate your attention in this matter.

Sincerely,



John K. Delaney  
Member of Congress



C.A. Dutch Ruppersberger  
Member of Congress



21 October 2013

Dear Congressman Delaney:

As our Congressman, I am writing in regards to the Implementation and use of FOIAXpress by the Environmental Protection Agency and how it can help save the agency money while improving its overall FOIA case processing performance.

For the past twenty-four years, AINS, Inc., has provided software products and services to numerous federal government departments and agencies. In fact, FOIAXpress is the most comprehensive commercial application for processing Freedom of Information Act requests.

Deployed at over 200 Federal agencies and offices with over 10,000 end-users, FOIAXpress is used to accomplish a number of objectives, including improved FOIA request productivity, reduction in FOIA processing costs, improved government transparency and requestor satisfaction, avoidance and mitigation of FOIA litigation-related costs, and utilization of the Internet to enable online FOIA requests and tracking through agency web portals.

EPA currently owns 266 licenses of FOIAXpress that are not currently being used. The EPA Office of Environmental Information caused to be developed a solution known as FOIAonline, which eventually may provide *some* of the same functionality as FOIAXpress. However, published reports indicate that the annual expense for using FOIAonline by the EPA may exceed \$750,000 per year.

AINS is willing to modifying the EPA's annual maintenance fees to less than \$75,000 thereby saving the EPA approximately \$2 Million over three years - funds that can be allocated towards the Climate Action Plan to cut carbon emissions and continue to enhance and enforce the Clean Air Act.

I am confident that the re-deployment of FOIAXpress will be a successful cost saving decision for the EPA. I would appreciate you reviewing this matter and advising me of your findings.

Thank you for your assistance.

Sincerely,

David Kruger  
Vice President

AINS  
806 W Diamond Avenue, Suite 400  
Gaithersburg, MD 20852  
(O) 301-670-2311 (M) 301-461-2126



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**JAN 24 2014**

OFFICE OF  
ENVIRONMENTAL INFORMATION

The Honorable John K. Delaney  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Delaney:

Thank you for your letter regarding the issues raised by Mr. David Kruger concerning the Freedom of Information Act (FOIA)Xpress licenses held by the U.S. Environmental Protection Agency (EPA).

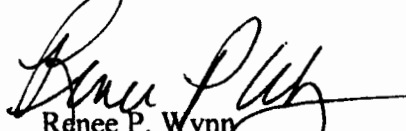
Mr. Kruger has sent similar letters asking other members of Congress and several congressional committees to express similar concerns since the successful launch of FOIAonline in October 2012. We have met with Congressional staff on more than one occasion to address each of his concerns, including those regarding cost-effectiveness and system functionality.

FOIAonline is a multi-agency Web-application that enables the public to submit FOIA requests to participating agencies; track the progress of an agency response to a request; search for information previously made available; and generate up-to-the-minute reports on FOIA processing. FOIAonline also serves as a workflow system and repository that enables partner agencies to receive, manage, track and respond to FOIA requests; generate reports, including the annual FOIA report that is submitted to the Department of Justice; communicate with requestors; and manage agency FOIA case files as electronic records. FOIAonline directly supports the Administration's management objectives for increasing the use of shared services, improving customer service, reducing administrative costs and decreasing duplication. FOIAonline is now being used to manage the FOIA process for seven organizations including the EPA, the U. S. Department of Commerce, the Federal Labor Relations Authority, Merit Systems Protection Board, National Archives and Records Administration – Office of General Counsel, Pension Benefit and Guarantee Corporation, and the Bureau of Customs and Border Protection/U.S. Department of Homeland Security.

The agency utilized the FOIAXpress application from approximately 2006 through September 2012. The EPA developed FOIAonline due to its need for expanded capabilities and the escalating costs of operating FOIAXpress. The EPA conducted technical and cost savings/avoidance analyses that determined the agency could develop an integrated FOIA solution, now known as FOIAonline, which would offer these capabilities and result in savings for the agency and other users of FOIAonline. In the fall of 2011, the U.S. Department of Commerce, the National Archives and Records Administration, and the EPA funded the design and construction of FOIAonline. FOIAonline was developed and deployed in about a year for approximately \$1 million.

Again, thank you for your letter. If you have further questions, please contact me or have your staff contact Pamela Janifer in EPA's Office of Congressional and Intergovernmental Relations at [janifer.pamela@epa.gov](mailto:janifer.pamela@epa.gov) or (202) 564-6969.

Sincerely,

A handwritten signature in black ink, appearing to read "Renee P. Wynn", with a long horizontal flourish extending to the right.

Renee P. Wynn  
Acting Assistant Administrator  
and Chief Information Officer

AK-15-001-3380

Congress of the United States  
Washington

March

President Barack Obama  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

NO final  
Response

Note in CMS

Dear President Obama:

Thank you for your leadership in responding to and applaud and support your Climate Action Plan ambitious carbon pollution reduction targets. Fund. These actions are critical to protect Americans from the most dangerous effects of climate change.

control reassigned  
to State Department  
for response

Americans are already shouldering the costs of climate change, and these costs are getting worse. Climate change is driving more severe drought and wildfires in the West, larger and more frequent floods in the Midwest, and sea level rise and greater storm damage along our coasts. Vulnerable populations, like children with asthma and the elderly, are suffering from higher levels of smog in our cities and longer, more severe heat waves. Farmers and ranchers are struggling with crop and livestock losses from drought. Increasingly acidic oceans are harming shellfish populations and threatening fisheries. Communities are struggling to pay for infrastructure damaged by fires, more extreme storms, and coastal erosion.

One of the three pillars of the Climate Action Plan is to lead international efforts to address global climate change. As a nation that has contributed more than a quarter of all global carbon pollution, it is our responsibility to lead. As a nation already feeling the effects and costs of climate change, it is also in our national interest to do so. In order to solve the problem of climate change, it is essential that the United States has allies in cutting carbon pollution. As we have seen time and time again, other countries will join us, if America leads the way.

As the parties to the United Nations Framework Convention on Climate Change (UNFCCC) prepare to meet at the end of the year, they have agreed that each nation will pledge to reduce its carbon pollution in an amount and manner to be determined by each nation and that puts the world on a strong trajectory to address climate change. Proactive engagement in these negotiations, backed up by domestic climate action, is the best way to protect our nation's interests and ensure every country does its fair share.

The strong target announced by the United States, along with reciprocal commitments from China and the European Union, sets the stage for a meaningful climate agreement this year. Because the U.S. and China are the largest two emitters of carbon pollution and together with the

E.U. are collectively responsible for more than half of the world's energy sector emissions, the recent commitments by our countries represent significant progress. This progress is strengthened by the recent U.S.-India commitment to work together to achieve a successful and ambitious global climate agreement this year. The United States' pledge of \$3 billion to the Green Climate Fund continues to demonstrate our history of partnering with the least developed countries to help them grow their economies in ways that take into account the impacts of climate change.

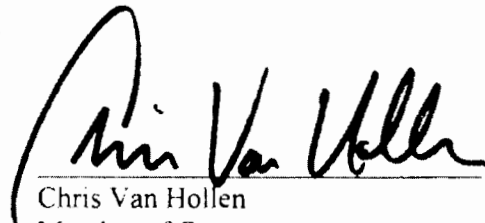
We stand ready to help you seize this opportunity to strengthen the global response to climate change. Your Administration has made significant progress in reducing U.S. emissions, including through improvements in vehicle fuel efficiency standards and other areas that are saving consumers and businesses money, reducing air pollution, creating jobs, and putting America back in control of our energy security. We applaud the Administration's continued use of its existing authority to cut carbon pollution, in particular EPA's standards to limit carbon pollution from power plants under the Clean Air Act, and your efforts under the UNFCCC.

Thank you again for your leadership in fighting devastating climate change to protect American families today and for generations to come.

Sincerely,



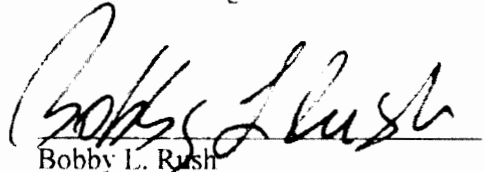
Sheldon Whitehouse  
United States Senator



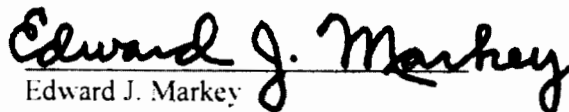
Chris Van Hollen  
Member of Congress



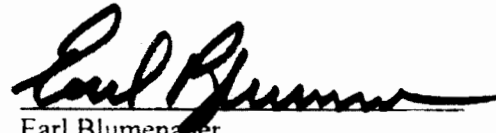
Benjamin L. Cardin  
United States Senator



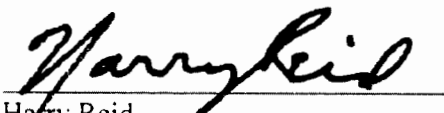
Bobby L. Rush  
Member of Congress



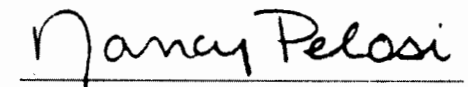
Edward J. Markey  
United States Senator



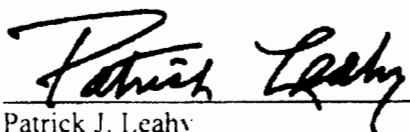
Earl Blumenauer  
Member of Congress



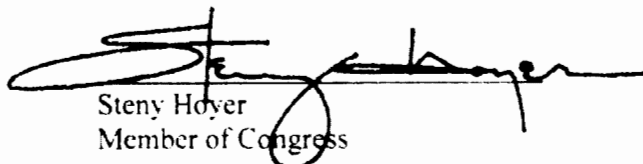
Harry Reid  
United States Senator



Nancy Pelosi  
Member of Congress



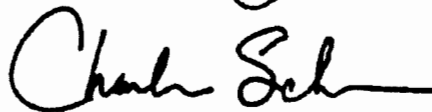
Patrick J. Leahy  
United States Senator



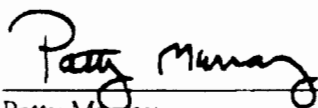
Steny Hoyer  
Member of Congress



Richard J. Durbin  
United States Senator



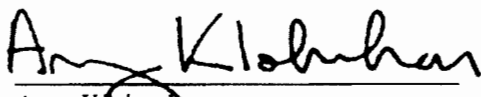
Charles E. Schumer  
United States Senator



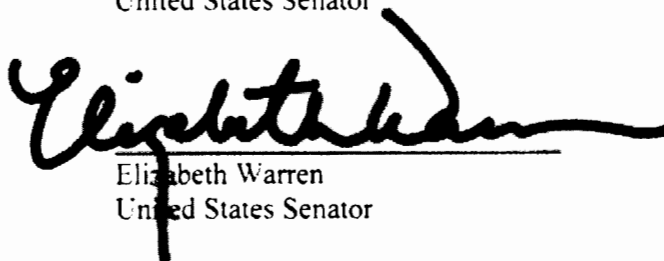
Patty Murray  
United States Senator



Debbie Stabenow  
United States Senator



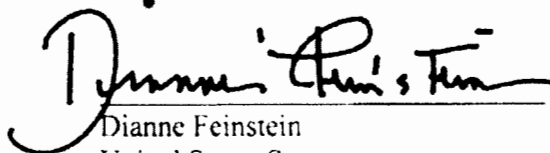
Amy Klobuchar  
United States Senator



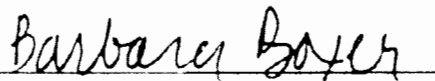
Elizabeth Warren  
United States Senator



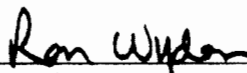
Barbara A. Mikulski  
United States Senator



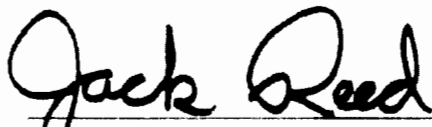
Dianne Feinstein  
United States Senator



Barbara Boxer  
United States Senator



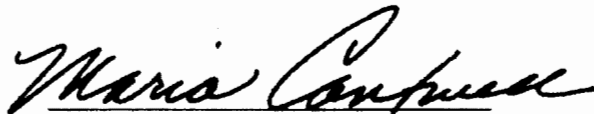
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United States Senator



Jack Reed  
United States Senator



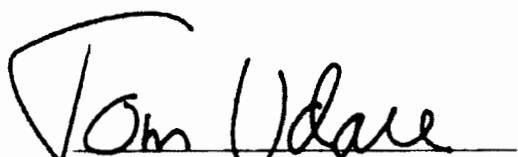
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United States Senator

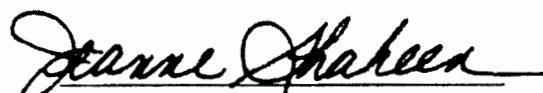


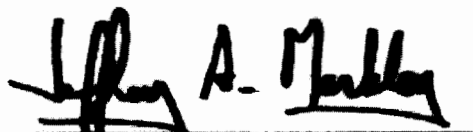
Maria Cantwell  
United States Senator

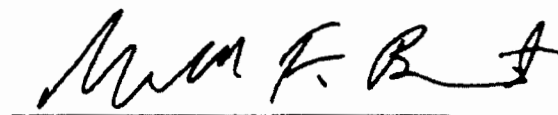


Bernard Sanders  
United States Senator


  
Tom Udall  
United States Senator

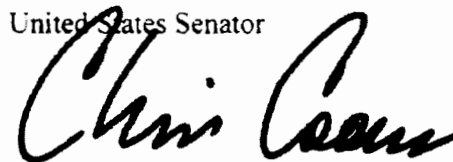
  
Jeanne Shaheen  
United States Senator


  
Jeffery A. Merkley  
United States Senator

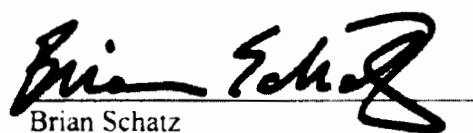
  
Michael F. Bennet  
United States Senator

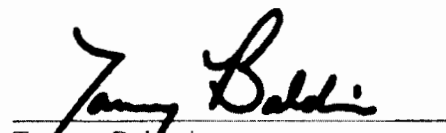
  
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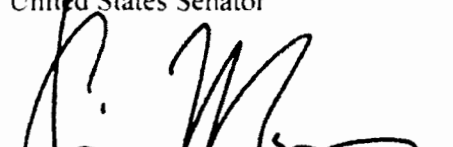
  
Al Franken  
United States Senator


  
Christopher A. Coons  
United States Senator


  
Richard Blumenthal  
United States Senator

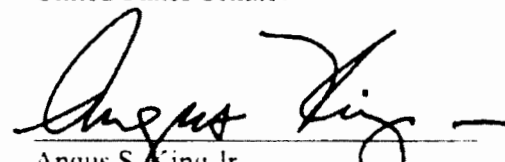
  
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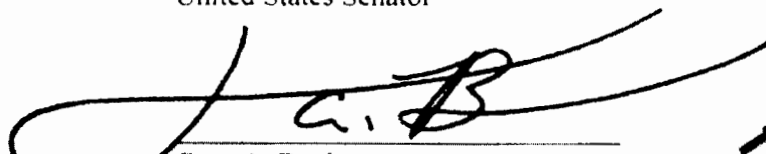
  
Tammy Baldwin  
United States Senator


  
Christopher Murphy  
United States Senator

  
Mazie K. Hirono  
United States Senator

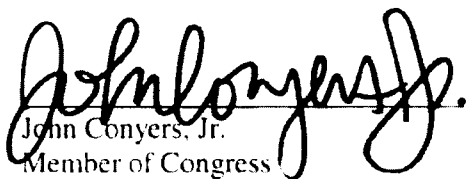
  
Martin Heinrich  
United States Senator

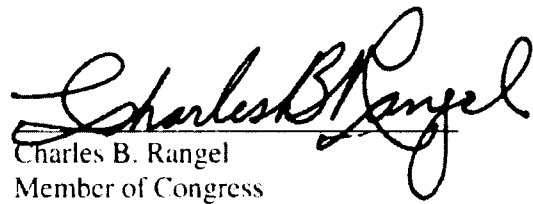
  
Angus S. King Jr.  
United States Senator

  
Cory A. Booker  
United States Senator

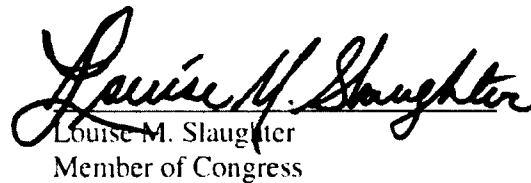
  
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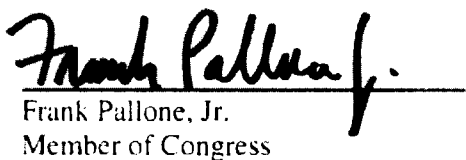



  
John Conyers, Jr.  
Member of Congress

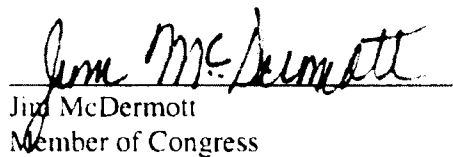
  
Charles B. Rangel  
Member of Congress

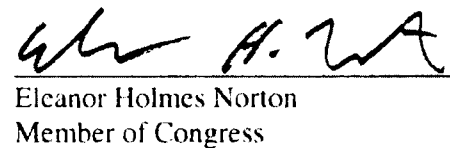
  
Peter DeFazio  
Member of Congress

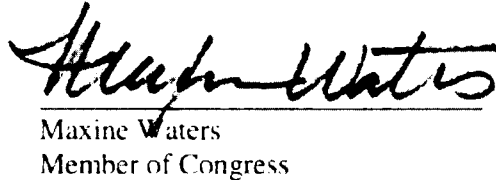
  
Louise M. Slaughter  
Member of Congress

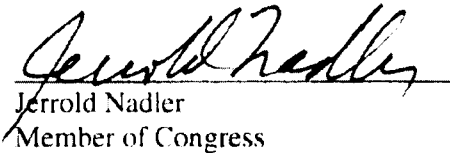
  
Frank Pallone, Jr.  
Member of Congress

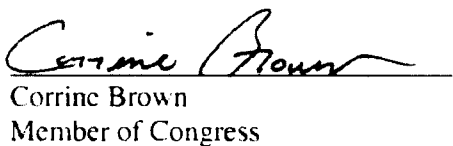
  
Eliot L. Engel  
Member of Congress

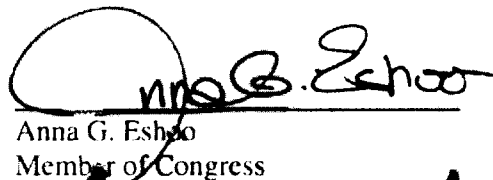
  
Jim McDermott  
Member of Congress

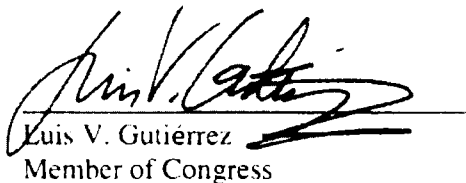
  
Eleanor Holmes Norton  
Member of Congress

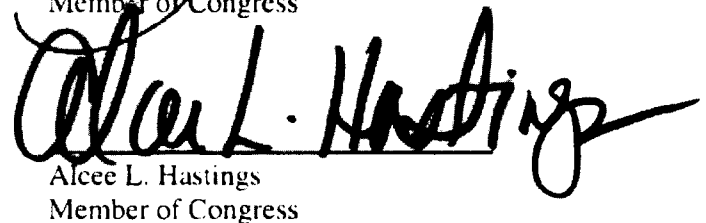
  
Maxine Waters  
Member of Congress

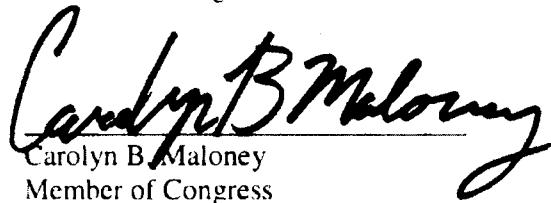
  
Jerrold Nadler  
Member of Congress

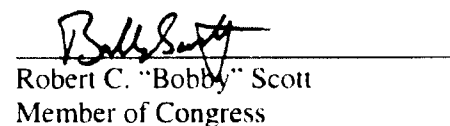
  
Corrine Brown  
Member of Congress

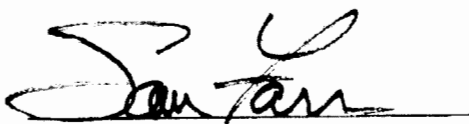
  
Anna G. Eshoo  
Member of Congress

  
Luis V. Gutiérrez  
Member of Congress

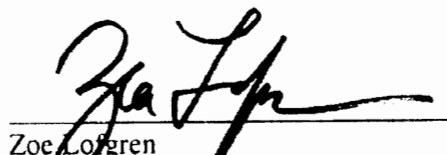
  
Alcee L. Hastings  
Member of Congress

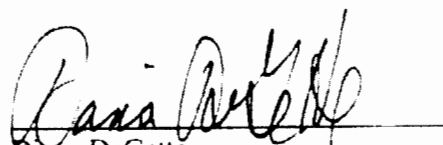
  
Carolyn B. Maloney  
Member of Congress


  
Robert C. "Bobby" Scott  
Member of Congress


  
Sam Farr  
Member of Congress

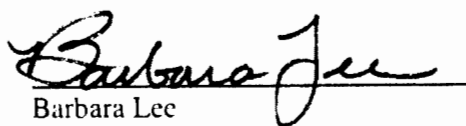
  
Lloyd Doggett  
Member of Congress

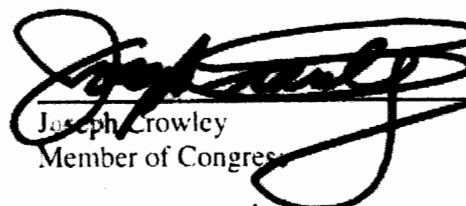
  
Zoe Lofgren  
Member of Congress

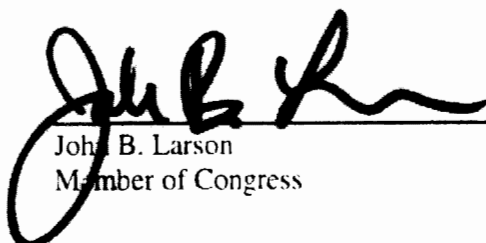
  
Diana DeGette  
Member of Congress

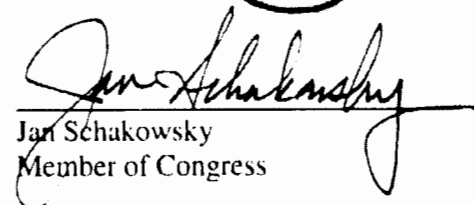
  
Adam Smith  
Member of Congress

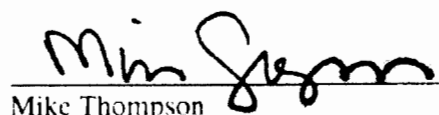
  
Lois Capps  
Member of Congress

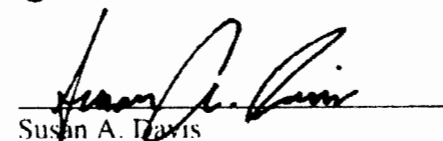
  
Barbara Lee  
Member of Congress

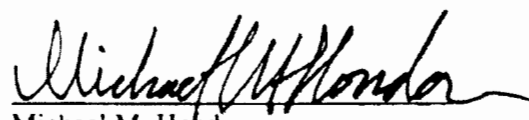
  
Joseph Crowley  
Member of Congress


  
John B. Larson  
Member of Congress

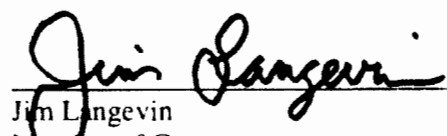
  
Jan Schakowsky  
Member of Congress

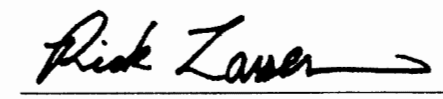
  
Mike Thompson  
Member of Congress


  
Susan A. Davis  
Member of Congress

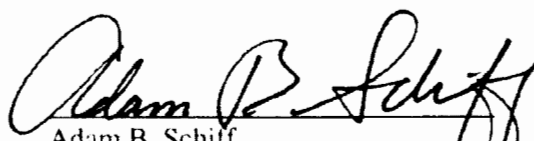
  
Michael M. Honda  
Member of Congress

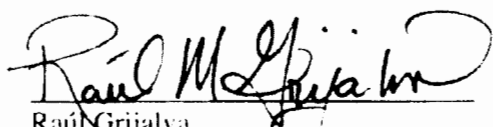
  
Steve Israel  
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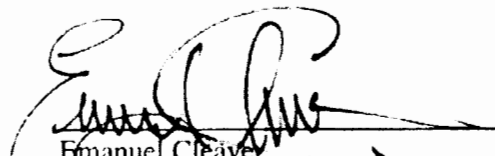
  
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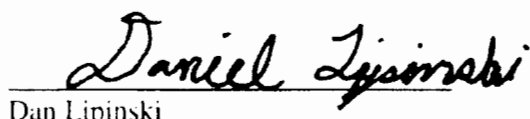
  
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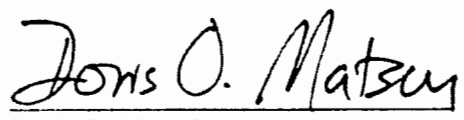
  
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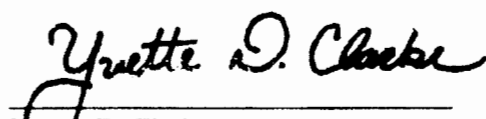
  
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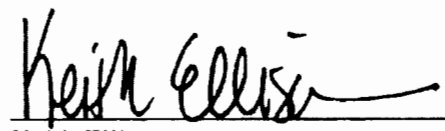
  
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Member of Congress

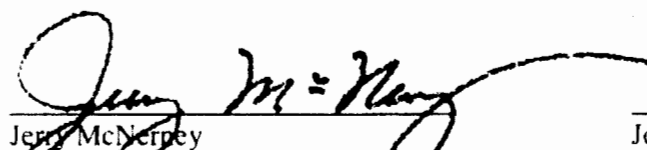
  
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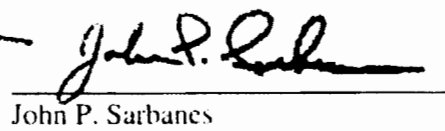
  
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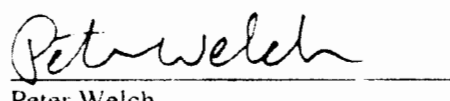
  
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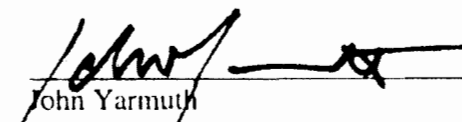
  
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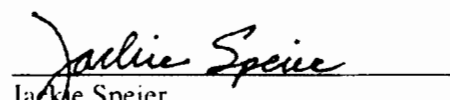
  
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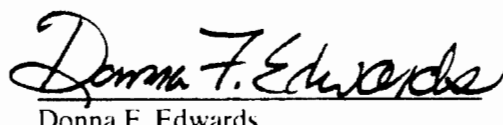
  
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Member of Congress

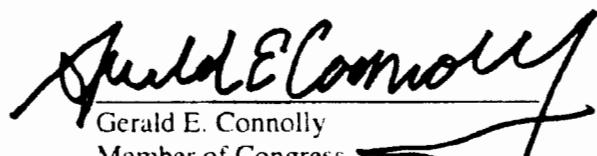
  
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Member of Congress

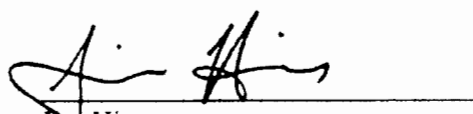
  
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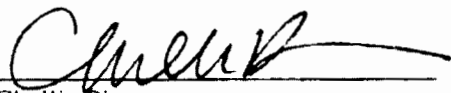
  
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Jackie Speier  
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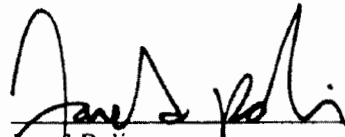
  
Donna F. Edwards  
Member of Congress

  
Gerald E. Connolly  
Member of Congress

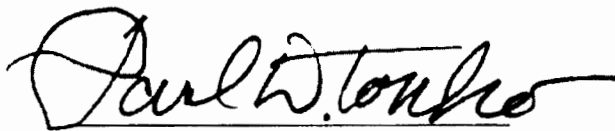
  
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Chellie Pingree  
Member of Congress



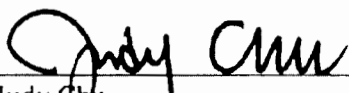
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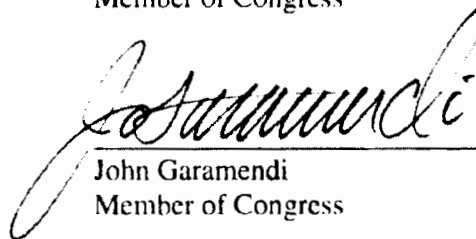
Paul Tonko  
Member of Congress



Mike Quigley  
Member of Congress



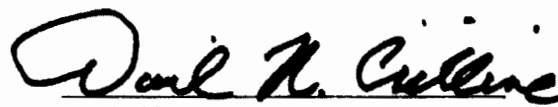
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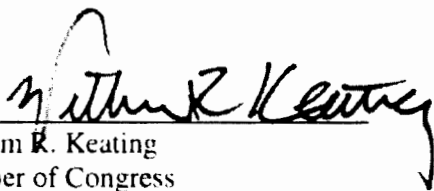
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Member of Congress



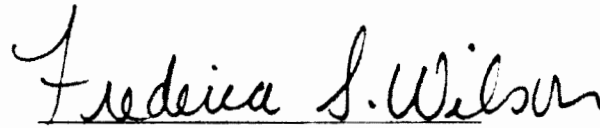
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Member of Congress



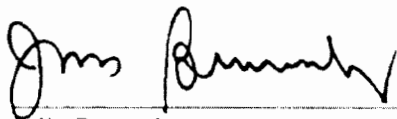
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Member of Congress



William R. Keating  
Member of Congress



Frederica S. Wilson  
Member of Congress



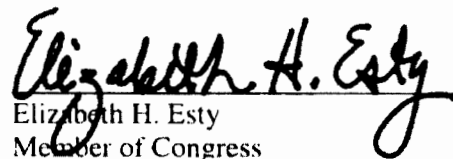
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Member of Congress



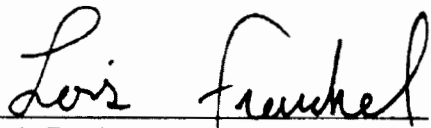
Matt Cartwright  
Member of Congress



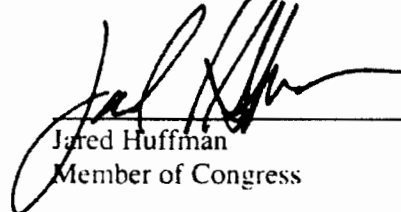
John K. Delaney  
Member of Congress



Elizabeth H. Esty  
Member of Congress



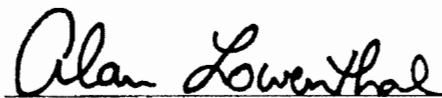
Lois Frankel  
Member of Congress



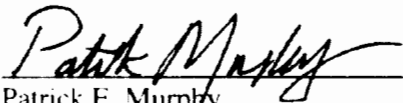
Jared Huffman  
Member of Congress



Ann McLane Kuster  
Member of Congress



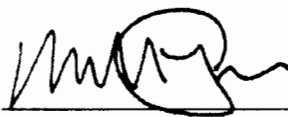
Alan Lowenthal  
Member of Congress



Patrick E. Murphy  
Member of Congress



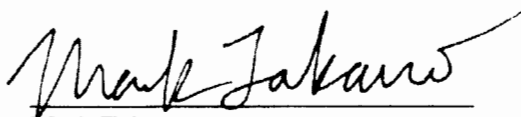
Scott Peters  
Member of Congress



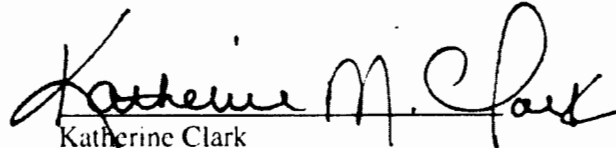
Mark Pocan  
Member of Congress



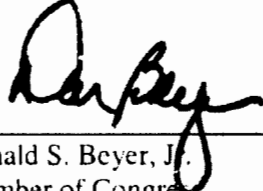
Eric Swalwell  
Member of Congress



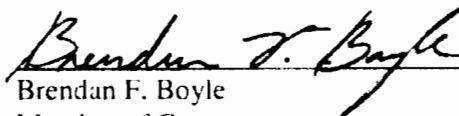
Mark Takano  
Member of Congress



Katherine Clark  
Member of Congress



Donald S. Beyer, Jr.  
Member of Congress



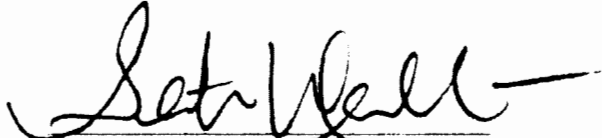
Brendan F. Boyle  
Member of Congress



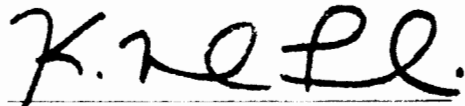
Mark DeSaulnier  
Member of Congress



Ted W. Lieu  
Member of Congress



Seth Moulton  
Member of Congress



Mark Takai  
Member of Congress

AL-14-000-0706

**Congress of the United States**  
**Washington, DC 20515**

October 25, 2013

Administrator Gina McCarthy  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

We write to express concern about the Agency's missed deadline to propose its national stormwater rulemaking on June 10<sup>th</sup>. This marks the sixth time that the Agency has passed a deadline to propose critical updates to our nation's stormwater programs.

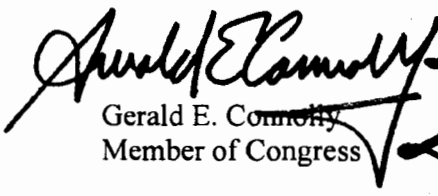
Many experts have pointed squarely at polluted stormwater runoff as the biggest challenge to achieving good water quality in the nation's rivers, lakes, and estuaries. Across the country, our nation's iconic waters, from the Chesapeake Bay to the Puget Sound to the Great Lakes, are threatened by polluted runoff. In the Long Island Sound alone, runoff is responsible for 47 percent of contamination by pathogens such as viruses that make people sick.

While the Clean Water Act has had a very positive effect upon our waters, this particular source of pollution has been one of the toughest to tackle, making it all the more important that we do so expeditiously. While some states have adopted robust pollution control regimes to manage the storm water which runs off the urban landscape, many others have not yet done so. Moreover, these same states often share watersheds. There is clearly a need to address the problem at the national level, and the Clean Water Act provides the authority for the EPA to do so.

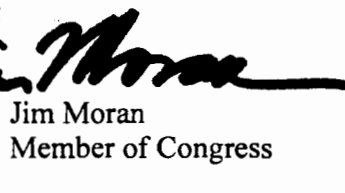
We are certain that a fair and effective nationwide rule can be promulgated that would mitigate the economic, health, and environmental costs imposed on our citizens and businesses by unregulated stormwater runoff, such as the damage to property from frequent flooding, the treatment of drinking water supplies, closure of beaches and other water-based recreation, and negative impacts to property values. In addition, innovative strategies for stormwater management, especially ones that emphasize the use of "green infrastructure," can be job-creators and boosters of local economic development.

We urge you to work toward the expeditious adoption of a robust stormwater rule to protect clean water for our communities across the country.

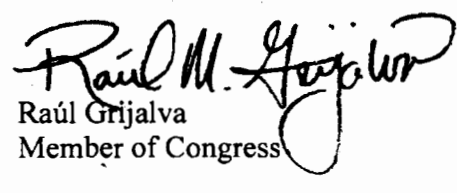
Sincerely,



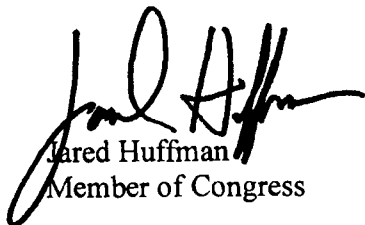
Gerald E. Connolly  
Member of Congress



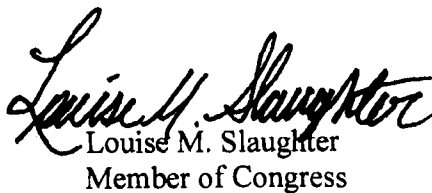
Jim Moran  
Member of Congress



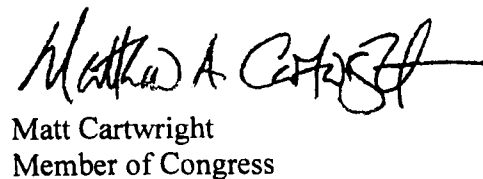
Raúl M. Grijalva  
Member of Congress



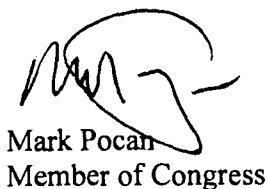
Jared Huffman  
Member of Congress



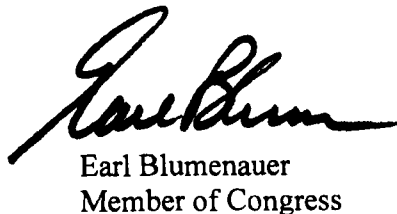
Louise M. Slaughter  
Member of Congress



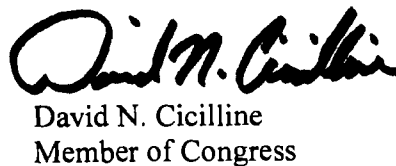
Matt Cartwright  
Member of Congress



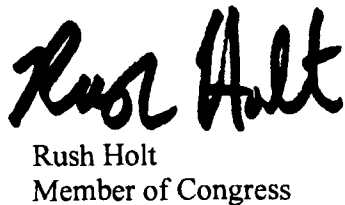
Mark Pocan  
Member of Congress



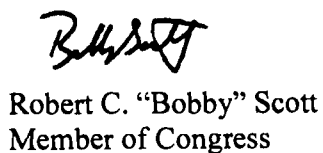
Earl Blumenauer  
Member of Congress



David N. Cicilline  
Member of Congress



Rush Holt  
Member of Congress



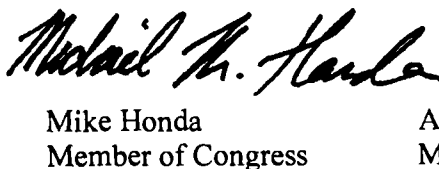
Robert C. "Bobby" Scott  
Member of Congress



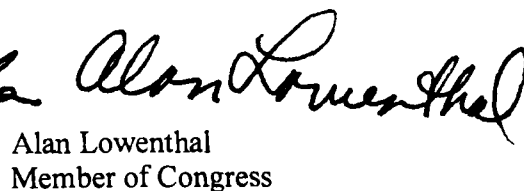
Judy Chu  
Member of Congress



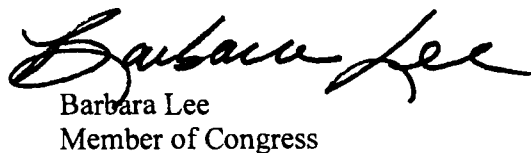
Brad Schneider  
Member of Congress



Mike Honda  
Member of Congress



Alan Lowenthal  
Member of Congress



Barbara Lee  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 10 2014

OFFICE OF WATER

The Honorable Bradley Schneider  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your October 25, 2013, letter to the U.S. Environmental Protection Agency regarding changes the agency is considering to its stormwater program in order to address the adverse impacts that urban stormwater discharges have on water bodies.

We agree with you that stormwater pollution is a serious water quality problem affecting our nation's waters. The agency shares your goal of supporting cost-effective solutions to stormwater challenges, and recognizing those states or localities that are already addressing this important source of water pollution. A more proactive approach using national stormwater retention standards, one of the program changes we are considering, would help cities save money in the long run. It is cost-effective to install stormwater controls up front as sites are being developed rather than afterwards. Proactive stormwater retention will prevent new water quality impacts and will reduce the need for cities to spend their limited resources on costly retrofits and stream restoration projects to restore impaired waters. The agency is conducting a detailed analysis of the costs, impacts, and benefits of establishing national stormwater retention standards and this information will be publically available at the time of the proposed rulemaking for review and comment.

Consideration of regionally appropriate solutions will be important to ensuring such cost-effective stormwater solutions. Many cities and counties have already developed effective stormwater programs, which is why we are considering provisions to allow local programs to vary from the national standard as long as an equivalent amount of protection is provided. We understand that local governments need flexibility to address their water quality needs in the most cost-effective manner. We are also considering a number of other flexibilities, including watershed-based programs with voluntary components and alternative ways for site owners to comply if they cannot meet the stormwater retention standard due to factors such as site constraints or water rights laws.

In considering these changes to our stormwater program, we have solicited useful input from many stakeholders. We are carefully considering all of the suggestions we have received and are looking forward to working with a broad range of interested parties to make stormwater program changes that will provide better protection of the nation's water bodies while balancing the need for flexibility at the local level.



Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at [spraul.greg@epa.gov](mailto:spraul.greg@epa.gov) or 202-564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized, looping flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

AL-14-000-1163

**Congress of the United States**  
**Washington, DC 20515**

November 1, 2013

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

We write to thank you for your leadership on climate and environmental issues, particularly on the proposal for regulating carbon pollution from new power plants. We urge you to continue the effort to reduce the environmental impact of power plants by creating a strong national standard on power plant cooling water intake structures, and mandating closed-cycle cooling for all existing power plants.

As currently written, the proposed new rules on power plant cooling structures fail to set a strong national standard for protecting aquatic ecosystems, despite the availability and prevalence of closed-cycle technology. Furthermore, these systems place the burden of regulating cooling-intake structures on strained state environmental protection agencies.

Although closed-cycle cooling and reclaimed water technology has been widely used for decades, over 600 power plants across the country still use outdated once-through cooling structures. These structures degrade the ecology of our rivers, estuaries, and harbors by directly causing wildlife mortality, thermal pollution, and unsustainable water overuse. As climate change continues to accelerate, the negative effects of once-through cooling structures will be magnified.

Nationally, these systems kill over 2 billion fish, crabs, and shrimp every year, as well as over 528 billion eggs and larvae, the base of many food chains. Once-through cooling systems destroy individual animals representing 215 endangered or threatened species, including sea turtles and manatees.

Ecosystems are further harmed by the amount of water demanded by these cooling systems as well as the temperature of the discharge water. The power industry in the United States uses more water than any other sector of the economy, accounting for 49% of the nation's water use. As this water passes through a once-through cooling system, it is heated and then discharged back into the receiving waters at elevated temperatures, killing aquatic life and fundamentally altering ecosystems.

The use of once-through cooling structures is simply unnecessary. Closed-cycle cooling structures, standard for new power plants since the 1980s, reduce water use and fish kills by

95%. Retrofitting the remaining old power plants with these structures could generate jobs while ensuring environmental protection and energy grid security.

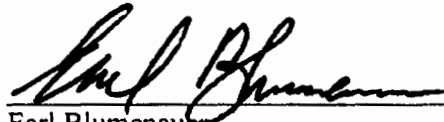
The need to update these cooling systems takes on added urgency when factoring in the effects of climate change. Droughts and extreme heat waves, which are expected to continue to intensify and proliferate as the climate continues to warm, tax our freshwater resources, increase demand on our power grids, and further stress local ecosystems. During extreme heat events, power plants with once-through cooling systems are forced to limit operations at peak energy hours as they compete for increasingly scarce water resources that are needed downstream for irrigation or municipal needs. Closed-cycle cooling structures would ensure greater energy grid security and reduce ecological harm in a warming world.

We urge you to take this opportunity to set a strong, national standard to upgrade power plant cooling structures, instead of continuing the policy of environmental degradation, unsustainable resource use, and energy grid insecurity.

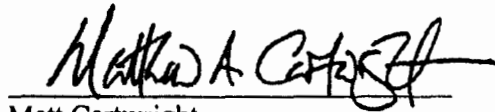
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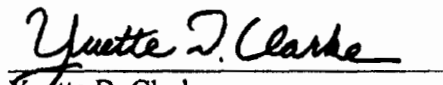
Keith Ellison  
Member of Congress



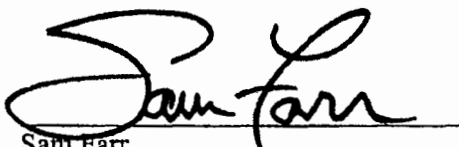
Earl Blumenauer  
Member of Congress



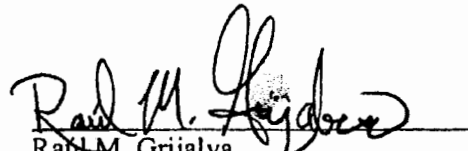
Matt Cartwright  
Member of Congress



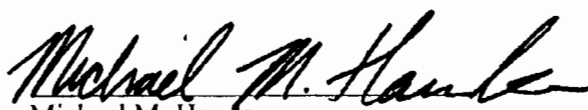
Yvette D. Clarke  
Member of Congress



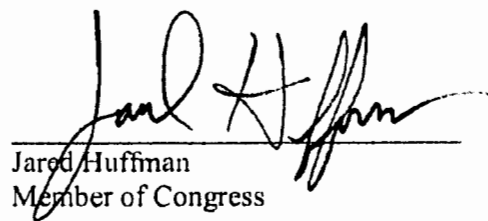
Sam Farr  
Member of Congress



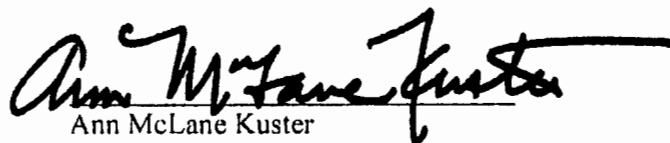
Raul M. Grijalva  
Member of Congress



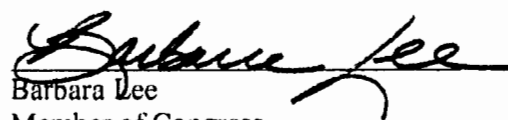
Michael M. Honda  
Member of Congress




Jared Huffman  
Member of Congress



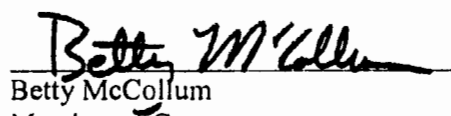
Ann McLane Kuster  
Member of Congress



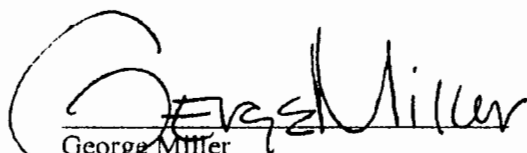
Barbara Lee  
Member of Congress



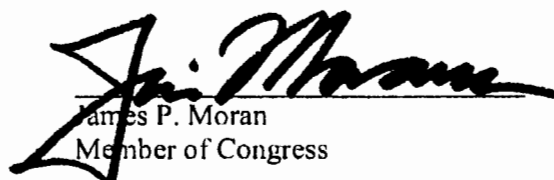
Zoe Lofgren  
Member of Congress



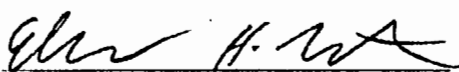
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Member of Congress



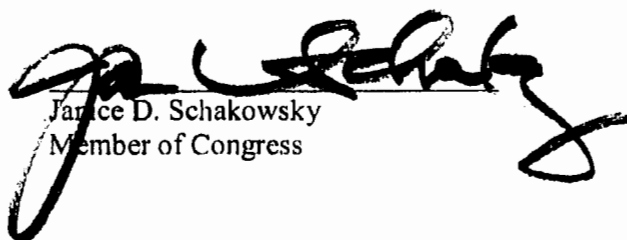
George Miller  
Member of Congress



James P. Moran  
Member of Congress



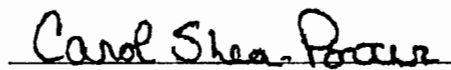
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Member of Congress



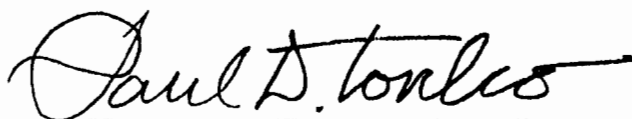
Janice D. Schakowsky  
Member of Congress



Bradley S. Schneider  
Member of Congress



Carol Shea-Porter  
Member of Congress



Paul Tonko  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 17 2014

OFFICE OF WATER

The Honorable Bradley S. Schneider  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your letter of November 1, 2013, regarding the proposed rule for cooling water intake structures that the U.S. Environmental Protection Agency published in April 2011. During the public comment period for the proposed rule, we received many comments on how to make national standards work better for the diverse community of interests including more than 1,100 industrial facilities, state permitting authorities, and commercial and recreational anglers. Your letter reflects some of the concerns we heard during the public comment period. The EPA is carefully considering the comments and new data we have received from the regulated community, environmental groups and other stakeholders as we develop the final rule.

The proposed rule would establish national standards under section 316(b) of the Clean Water Act for certain existing power plants and manufacturing facilities. The proposed rule seeks to minimize adverse environmental impact through standards that protect aquatic organisms from death and injury resulting from the withdrawal of water by cooling water intake structures. The largest power plants and manufacturing facilities in the United States (that each withdraw at least two million gallons per day) cumulatively withdraw more than 219 billion gallons of water each day, resulting in the death of billions of aquatic organisms such as fish, larvae and eggs, crustaceans, shellfish, sea turtles, marine mammals, and other aquatic life. Most impacts are to early life stages of fish and shellfish through impingement<sup>1</sup> and entrainment.<sup>2</sup> The proposed rule would establish a baseline level of protection for impingement and a site-specific analysis for entrainment that would be conducted by state or EPA permit writers. This flexible approach would ensure that the most up-to-date technologies are considered and appropriate cost-effective protections for fish and other aquatic populations are used.

Your letter expressed concern that the proposed rule did not include a mandate for the use of closed-cycle cooling systems at existing facilities, and expressed concern that without such a requirement, there would be continued fish kills and ecological degradation from once-through cooling systems. Your letter also expressed concern about the burden of regulating cooling water intake structures that would fall to strained state environmental protection agencies under the proposed rule.

As noted in the proposed rule, closed-cycle cooling is the best technology for reducing impacts to fish and other aquatic organisms, but it is not available widely enough to be the basis for a national standard in the regulation. The proposed rule described a rigorous process for taking site-specific information into

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<sup>1</sup> Impingement is the pinning of fish and other larger aquatic organisms against the screens or other parts of the intake structure.

<sup>2</sup> Entrainment is the injury or death of smaller organisms that pass through the power plant cooling system.

account to determine which facilities would have closed cycle cooling requirements in their National Pollutant Discharge Elimination System permit.

With its final rule, the EPA seeks to strike a balance for power generation, manufacturing, and a healthy and productive environment. The EPA proposed this regulation to meet its Clean Water Act obligations. In doing so, we intend to fully consider all comments we received during the public comment period for the proposed rule and the subsequent comments received in response to the two Notices of Data Availability published in the Federal Register on June 11 and 12, 2012 (77 FR 34315 and 77 FR 34927). Additional information is available on the EPA's website at:  
<http://water.epa.gov/lawsregs/lawsguidance/cwa/316b>

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at [spraul.greg@epa.gov](mailto:spraul.greg@epa.gov) or (202) 564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Stoner', with a stylized flourish extending to the right.

Nancy K. Stoner  
Acting Assistant Administrator

AL-14-000-4915

**Congress of the United States**

**Washington, D.C. 20515**

January 31, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
William Jefferson Clinton Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 1101A  
Washington, DC 20460

RE: Tier 3 Motor Vehicle Emission and Fuel Standards

Dear Administrator McCarthy:

The U.S. Environmental Protection Agency has led the national effort to save lives and improve public health under the Clean Air Act. That is why we look forward to the EPA's issuance of the final Tier 3 Motor Vehicle Emission and Fuel Standards as soon as possible. As the EPA's own analysis shows, the proposed standards would prevent tens of thousands of asthma attacks and nearly 2,500 premature deaths every year by 2030, while also adding between \$8 billion and \$23 billion to our economy each year in economic and health care benefits.

Cleaner gasoline and vehicle standards will dramatically improve public health by reducing nitrogen oxides, carbon monoxide, volatile organic compounds, and other harmful pollutants and well-established causes of ozone pollution and particle pollution. The proposed lower sulfur gasoline will provide as much emissions reduction as removing an estimated 33 million cars from the road. According to the National Association of Clean Air Agencies, the proposed standards would increase the cost of gasoline by about one cent per gallon and add \$150 to the cost of a new car, meaning our air can be much cleaner without a high cost to consumers.

Those suffering most from air pollution cannot afford to wait any longer for relief. According to the Health Effects Institute, 30 to 45 percent of American city dwellers live close enough to a major roadway to face near-constant exposure to traffic-related air pollutants including nitrogen oxides, particulate matter, carbon monoxide, and cancer causing agents such as benzene. Recently, the World Health Organization's International Agency for Research on Cancer concluded that outdoor air pollution and particulate matter cause lung cancer in humans.

Air pollution affects everyone, but is especially harmful to people with asthma and cardiovascular disease, seniors, and young children. We urge EPA to

finalize the Tier 3 Motor Vehicle Emission and Fuel Standards so all Americans can breathe easier.

Sincerely,

~~Jack Kirby~~ Mr. A. Wapner

~~Paul Hingale~~ Paul D. Lombro

Louise M. Slaughter ~~John~~

Lois Capper John F. Tenny

Hank Johnson Kitty Ellsri

Barbara Lee ~~Jim Smith~~

Jim Moran Alvin K. Hastings



Dana Deltete

Michael H. Mahand

Bob Miller

Erin Van Hatten

Jul H. H.

Paul M. Gijalua

Matthew A. Cantag

Zia Fok

Chell R

Jander L.

So Kim

Mike Kingley

Jeanelle Maeder

Tammy Duckworth

Jim Langevin

Jon H. C.

Mr. R.

Kim F. K.

Bradley S. Schneider

Jan. 19/20

Donald J. Connelly

Alan Lounthod

Danille Kibbel

Jackie Spaw

Alfred S. Sugg

Ed Blum

Rosa L. DeLano

Bahat

**Letter signers:** Jan Schakowsky, Earl Blumenauer, Lois Capps, Matt Cartwright, David Cicilline, Gerry Connolly, Diana DeGette, Rosa L. DeLauro, John Dingell, Tammy Duckworth, Keith Ellison, Raul Grijalva, Alcee Hastings, Jared Huffman, Hank Johnson, William Keating, Joseph Kennedy III, Daniel Kildee, Jim Langevin, Barbara Lee, Sander Levin, Zoe Lofgren, Alan Lowenthal, Betty McCollum, Jim McGovern, Michael Michaud, Jim Moran, Jerrold Nadler, Scott Peters, Chellie Pingree, Mark Pocan, Mike Quigley, Bobby Scott, Bradley Schneider, Allyson Schwartz, Louise Slaughter, Adam Smith, Jackie Speier, John Tierney, Paul Tonko, Chris Van Hollen, and Henry Waxman.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 25 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Bradley Schneider  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your letter of January 31, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy, urging the EPA to quickly finalize the rulemaking for the Tier 3 light-duty vehicle emissions and gasoline standards. The Administrator has asked that I respond on her behalf.

On March 3, 2014, the EPA issued the final Tier 3 rule. The Tier 3 standards reduce motor vehicle emissions and help state and local areas attain and maintain the existing health-based air quality standards in a cost-effective and timely way. The reductions in ozone and particulate matter will avoid premature mortality and other health impacts, including respiratory symptoms in children and exacerbation of asthma.

The Tier 3 standards will immediately provide health benefits when the rule takes effect in 2017 due to large emission reductions from the program's gasoline sulfur controls, and these significant health benefits will continue well into the future with the addition of the vehicle standards. Tier 3 responds to the critical need to improve air quality for all Americans, and we appreciate your interest and support of this program. For more information on the Tier 3 final rule, please visit the EPA's Tier 3 webpage at: <http://www.epa.gov/otaq/tier3.htm>.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", is positioned above the typed name.

Janet G. McCabe  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

AL-14-000-3591

December 16, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy:

As members of the United States House of Representatives, we urge you to swiftly propose a rule to restore protections to all of our nation's waterways. For the sake of our communities and the prospects of having waterways clean enough to swim in, fish from, and drink from, we must have a rule that protects all waters of the United States under the Clean Water Act, and we need your leadership to make that vision a reality.

Last year we celebrated the 40<sup>th</sup> anniversary of the Clean Water Act, which has been one of the most significant environmental laws in our nation's history. As was said on the floor of the House in 1972, "the conference bill defines the term 'navigable waters' broadly for water quality purposes. It means all 'the waters of the United States' in a geographical sense. It does not mean the 'navigable waters of the United States' in the technical sense as we sometimes see in some laws."<sup>1</sup> This definition protected our country's precious waterways by safeguarding our drinking water, alleviating flooding conditions, providing recreational opportunities, maintaining fish and wildlife habitat, and promoting a healthy economy.

However, two Supreme Court decisions – *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* and *Rapanos v. the United States* – have created significant uncertainty regarding federal jurisdiction under the Clean Water Act. According to the Environmental Protection Agency (EPA), these decisions have left almost 60 percent of our country's streams, at least 20 million acres of wetlands, and the drinking water for 117 million Americans at increased risk of pollution.

We are encouraged by EPA's commitment to follow sound science through their recent science report, which illustrates the significant relationship between tributaries and wetlands and the larger bodies of water into which they feed. EPA must continue to move this process forward swiftly and efficiently to prevent more pollution from entering our waterways.

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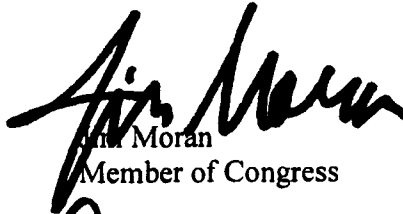
<sup>1</sup> House debate, *Congressional Record*, vol. 118, part 25, (October 4, 1972), p. 33756

As you have said, "We must ensure that water – so critical to human health, quality of life, and economic activity – is protected from dangerous contaminants, including new, emerging ones." We call on EPA to continue to prioritize a rulemaking to restore protections to all of our waterways. We stand ready to work with you and your Administration to help America on a path to a future where all our waterways are protected from dangerous pollution. Thank you for your support and leadership.

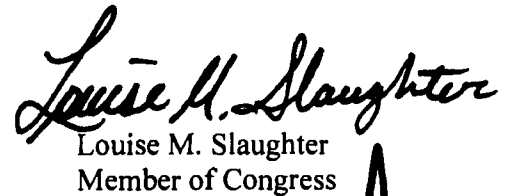
Sincerely,



John D. Dingell  
Member of Congress



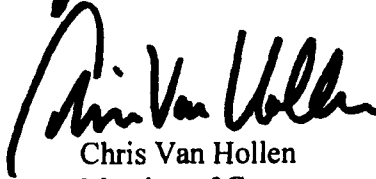
Jim Moran  
Member of Congress



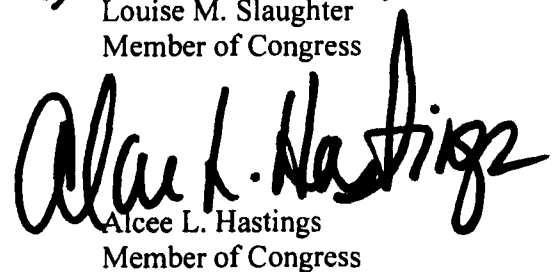
Louise M. Slaughter  
Member of Congress



Bradley S. Schneider  
Member of Congress



Chris Van Hollen  
Member of Congress



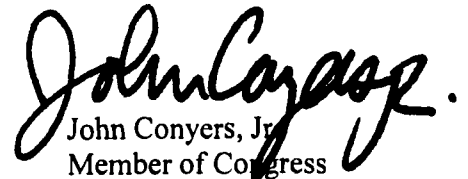
Alcee L. Hastings  
Member of Congress



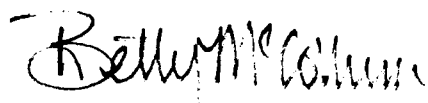
Kathy Castor  
Member of Congress



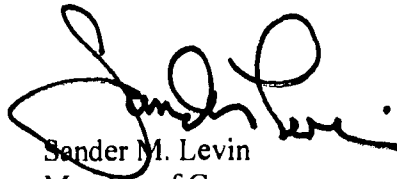
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Member of Congress



John Conyers, Jr.  
Member of Congress



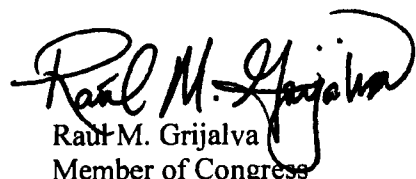
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Member of Congress



Sander M. Levin  
Member of Congress



Earl Blumenauer  
Member of Congress



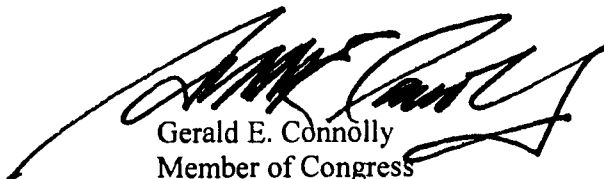
Raul M. Grijalva  
Member of Congress



Mark Pocan  
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Frederica S. Wilson  
Member of Congress



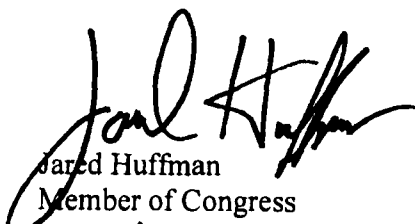
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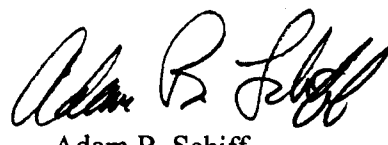
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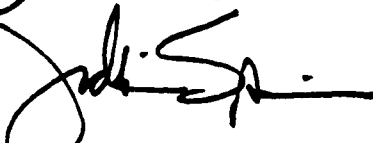



Barbara Lee  
Member of Congress

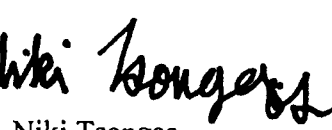
  
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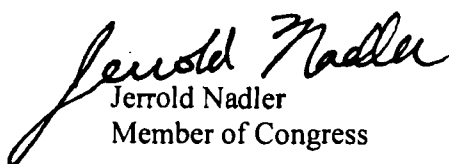
  
Susan A. Davis  
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Adam B. Schiff  
Member of Congress


  
Jackie Speier  
Member of Congress

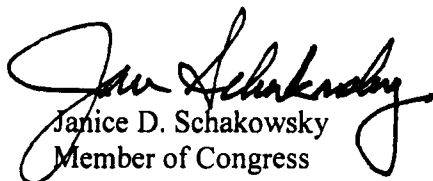
  
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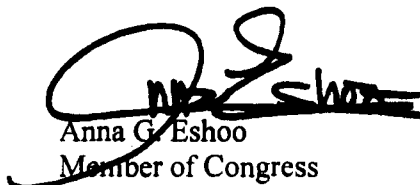
  
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Member of Congress

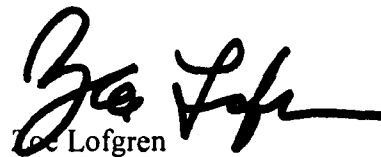
  
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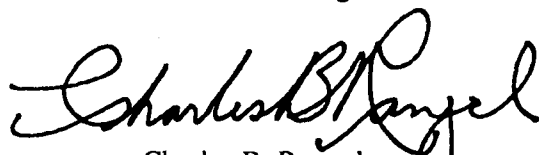
  
Anna G. Eshoo  
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Lois Capps  
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John P. Sarbanes  
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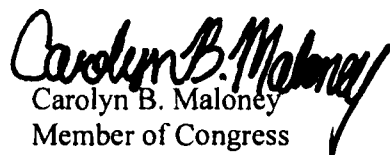
  
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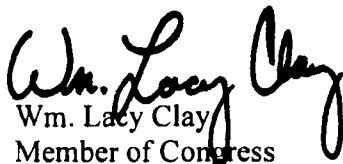
  
Joe Lofgren  
Member of Congress


  
Charles B. Rangel  
Member of Congress


  
Robert C. "Bobby" Scott  
Member of Congress

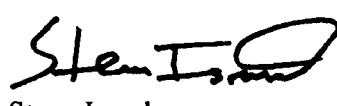
  
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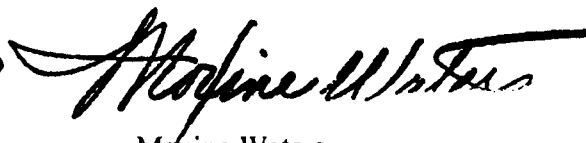
  
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Member of Congress

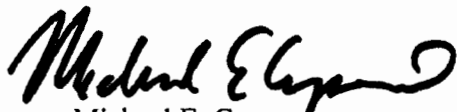
  
Wm. Lacy Clay  
Member of Congress

  
David N. Cicilline  
Member of Congress

  
Henry A. Waxman  
Member of Congress

  
Steve Israel  
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Maxine Waters  
Member of Congress



Michael E. Capuano  
Member of Congress




Judy Chu  
Member of Congress



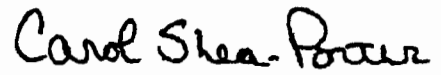
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Member of Congress




Daniel Lipinski  
Member of Congress




Joseph R. Kennedy III  
Member of Congress



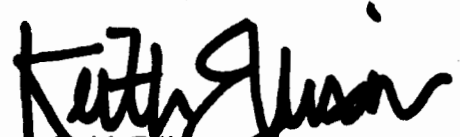
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Member of Congress



Henry C. "Hank" Johnson  
Member of Congress



Michael M. Honda  
Member of Congress



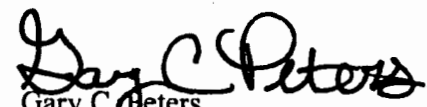
Keith Ellison  
Member of Congress



Bobby L. Rush  
Member of Congress



Gwen Moore  
Member of Congress



Gary C. Peters  
Member of Congress



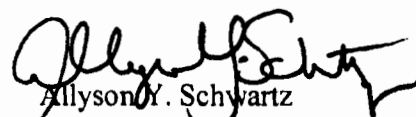
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Member of Congress



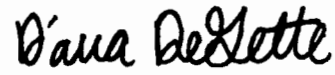
C.A. Dutch Ruppersberger  
Member of Congress



Bill Pascrell, Jr.  
Member of Congress



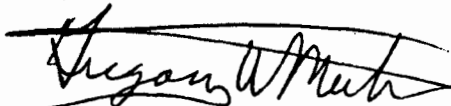
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Member of Congress



Diana DeGette  
Member of Congress



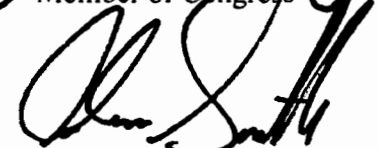
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Gregory W. Meeks  
Member of Congress



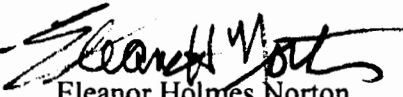
Scott H. Peters  
Member of Congress



Adam Smith  
Member of Congress



Beto O'Rourke  
Member of Congress

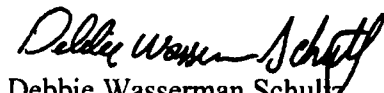


Eleanor Holmes Norton  
Member of Congress



David E. Price  
Member of Congress

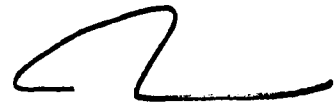




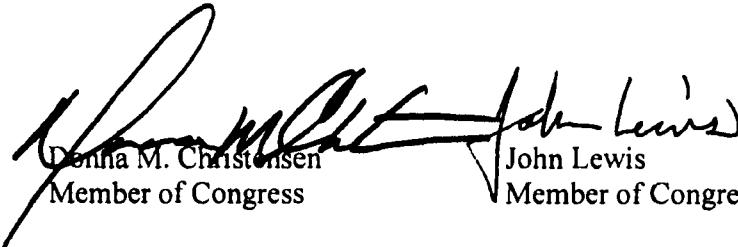
Debbie Wasserman Schultz  
Member of Congress



William R. Keating  
Member of Congress



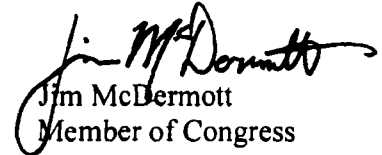
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Member of Congress



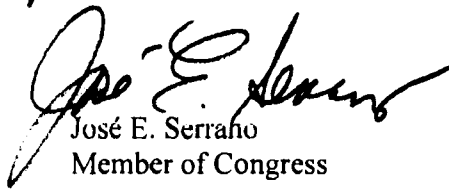
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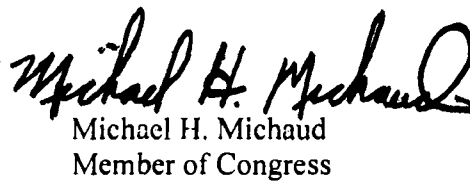
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Member of Congress



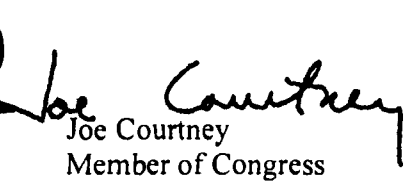
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Member of Congress



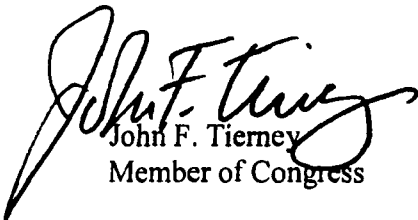
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Member of Congress



Michael H. Michaud  
Member of Congress



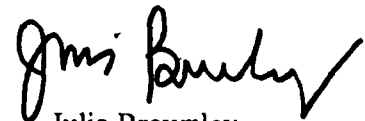
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Member of Congress



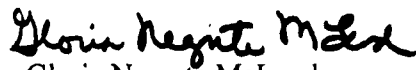
John F. Tierney  
Member of Congress



Ann McLane Kuster  
Member of Congress



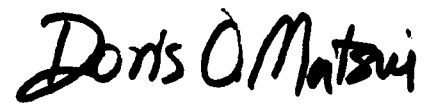
Julia Brownley  
Member of Congress



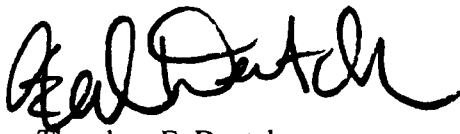
Gloria Negrete McLeod  
Member of Congress



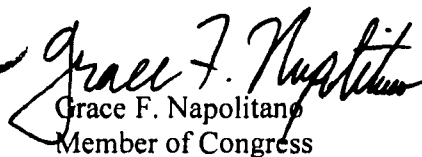
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Member of Congress



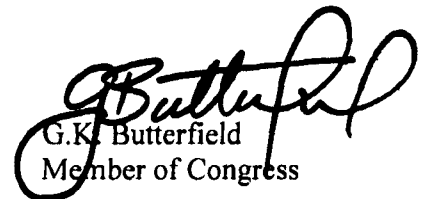
Doris O. Matsui  
Member of Congress



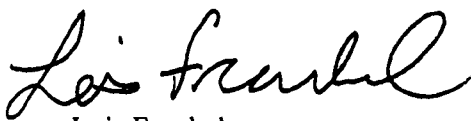
Theodore E. Deutch  
Member of Congress



Grace F. Napolitano  
Member of Congress



G.K. Butterfield  
Member of Congress



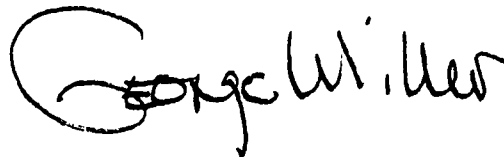
Lois Frankel  
Member of Congress



Jared Polis  
Member of Congress



Daniel T. Kildee  
Member of Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 19 2014

The Honorable Bradley Schneider  
House of Representatives  
Washington, D.C. 20515

OFFICE OF WATER

Dear Congressman Schneider:

Thank you for your December 16, 2013, letter to the U.S. Environmental Protection Agency requesting that the EPA propose a rule that protects all waters of the United States under the Clean Water Act. The EPA appreciates your leadership on this important issue.

On March 25, 2014, the EPA and the U.S. Army Corps of Engineers released a proposed rule that would clarify the jurisdiction of the Clean Water Act. The proposed rule would provide greater consistency, certainty, and predictability nationwide by improving clarity in determining where the Clean Water Act applies. These improvements are necessary to reduce costs and minimize delays in the permit process and protect waters that are vital to public health, the environment, and the economy. The agencies' process for making these improvements has been and will be transparent, based on the best available science, consistent with the law, and will include the opportunity for public input. The EPA and the Corps have received requests for a rulemaking from members of Congress, state and local officials, industry, agriculture, environmental groups, and the public.

This proposed rule takes into consideration the latest peer-reviewed science, including the EPA's draft science report titled: *Connectivity of Streams and Wetlands to Downstream Waters*. The report presents a review and synthesis of more than 1,000 pieces of relevant peer reviewed scientific literature. The EPA's independent Science Advisory Board (SAB) has solicited public comment to discuss the EPA's draft report, and held a public peer review meeting from December 16-18, 2013. Any final regulatory action related to the jurisdiction of the Clean Water Act will be based on the final version of this scientific assessment, which will reflect the EPA's consideration of all comments received from the public and the independent peer review. The SAB panel recently released an initial draft of their peer review report and will hold public teleconferences on April 28 and May 2 to discuss their draft report. We anticipate that the SAB will complete its review this summer. The EPA and the Corps will fully evaluate the results of the SAB's review before a final rule is completed.

The agencies' proposed rule focuses on clarifying current uncertainty concerning the jurisdiction of the Clean Water Act that has arisen from recent Supreme Court decisions. For example, the EPA and the Corps are focusing on clarifying protection of the network of smaller waters that feed into larger ones in order to keep downstream water safe from upstream pollution. The agencies are also clarifying protection for wetlands that filter and trap pollution, store water, and help keep communities safe from floods. These clarifications will also result in important economic benefits for the nation's businesses, farmers, energy producers, and others who depend on abundant and reliable sources of clean water.

The proposed rule does not identify any changes to existing regulatory exemptions and exclusions, including those that apply to the agricultural sector that ensure the continuing production of food, fiber, and fuel to the benefit of all Americans. The proposed rule also recognizes waters that are never subject to Clean Water Act regulation, including certain ditches, farm ponds, drain tiles, and others.

Additionally, the EPA and the Army Corps have coordinated with the U.S. Department of Agriculture (USDA) to develop an interpretive rule to ensure that more than 50 specific conservation practices that protect or improve water quality will not be subject to Section 404 dredged or fill permitting requirements. The agencies will work together to implement these new exemptions and periodically identify, review, and update USDA's Natural Resources Conservation Service conservation practice standards and activities that would qualify under the exemption. Any agriculture activity that does not result in the discharge of a pollutant to waters of the U.S. still does not require a permit.

The agencies' proposed Waters of the United States rule was published in the Federal Register on April 21 for a 90-day public comment period. The agencies are launching a robust outreach effort during this period, holding discussions around the country and gathering input needed to shape a final rule. We welcome comments from you and from your constituents on our proposed rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

August 1, 2013

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

We write with concern about the Environmental Protection Agency's (EPA) proposed change to the Definition of Solid Waste (DSW) under the Resource Conservation and Recovery Act (RCRA) on electroplating operations and the adverse effect these regulatory changes could have on the recycling of copper and other valuable secondary materials. These materials are a recyclable commodity that is of great importance to electronics manufacturers in our states who would be significantly impacted by the proposed rulemaking at the EPA.

We urge you to retain the current flexibility under the DSW rule that facilitates and encourages the recycling of valuable materials by easing regulatory burdens on the beneficial reuse of valuable industrial byproducts, especially for secondary material from electroplating operations with high value copper content. We believe such an approach is consistent with the spirit of RCRA.

This valuable manufacturing byproduct is one of the largest domestic sources of untapped metal-bearing secondary materials amenable to recycling and reclamation. The copper found in electroplating sludges can be recovered at less cost and far less environmental impact than mining raw copper ore, which generally contains less than 1 percent copper. However, the economics and practicalities of recycling electroplating sludge require that this recycling be undertaken offsite, as most electroplating operations do not have the volume, space or environmental permits to allow onsite recycling. It is over burdensome to expect small manufactures to retain all materials onsite least they come under a regulatory regime which is costly and time consuming.

Offsite transport and recycling would have been permitted under the EPA DSW regulation finalized in 2008, but the revisions to the regulations currently under final review within the Administration would prohibit that practice. Continued treatment of these materials as hazardous waste creates an economic disincentive for recycling and can lead to disposal in landfills rather than encouraging recycling a valuable recyclable resource. This process has an overall negative environmental impact rather than encouraging conservation of materials.

The remanufacturing exclusion, as included in the 2011 proposed DSW rule, should be expanded to include at least some metal-bearing hazardous secondary materials, such as F006. Broadening the remanufacturing exclusion will encourage the recycling of high value secondary materials that otherwise would be disposed of in a landfill.

It is unfortunate, then, that the regulations being advanced by EPA under the specific law designed to promote "Resource Conservation and Recovery" now serve to discourage those very activities. We urge you to bring the regulations back in line with the spirit of RCRA by providing

flexibility with respect to the transfer-based exclusion similar to the 2008 DSW rule, or by including a remanufacturing exclusion for high-value metal-bearing secondary materials such as F006.

We appreciate your timely consideration of this matter.

Sincerely,

Bill Johnson

Brad Schuch

Erin Swelwee

Dave P. Kr

Ann Wagner

Pat Timin

Jeff Purnan

Ed

Virginia Trax

Mike Colkman

Mike Rague

Dan Perle

Joe

J. Jahn

Michael M. Hamel

Paula Sanchez

cc: Howard A. Shelanski, Administrator-Designate, OIRA, Office of Management and Budget



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 12 2013

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Bradley Schneider  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your letter of August 1, 2013, to the U.S. Environmental Protection Agency (EPA) Administrator Gina McCarthy regarding the proposed Definition of Solid Waste rulemaking and how the proposed changes to the regulations may affect electroplating operations and electroplating sludges. I appreciate your interest in these issues.

The EPA has long worked with representatives of the electroplating industry to find solutions for the management of their sludges that maximize opportunities for recovering valuable metals for reuse under the Resource Conservation and Recovery Act while also protecting human health and the environment from exposure to the toxic constituents contained in those materials. The EPA is still considering how to proceed in finalizing the Definition of Solid Waste rulemaking and will continue to balance the need to recover materials for reuse with protection of human health and the environment.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator

AL-14-001-1139

**Congress of the United States**  
**Washington, DC 20515**

June 17, 2014

The Honorable Gina McCarthy  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator McCarthy:

We write to respectfully urge the United States Environmental Protection Agency (EPA) to finalize strong federal standards for the safe disposal of coal ash under the Resource Conservation and Recovery Act (RCRA) by the end of 2014. We support a final coal ash rule which establishes federal backstop protections including financial assurance, enforceable deadlines, and stringent requirements for coal ash management and cleanup. We encourage the EPA to finalize protections that phase out dangerous wet impoundments, including those at legacy sites, and ensure that facilities use protective liners and groundwater monitoring to safeguard against contamination.

Coal ash, the byproduct left from coal combustion, has several safe reuses but excess coal ash is often stored in more than 400 landfills and more than 1,000 wet impoundments near power plants across the country. Chemicals in coal ash can be harmful to human health and the environment if storage impoundments fail and they contaminate ground water, streams, rivers, or lakes. Coal ash can enter the watershed through the catastrophic failure of an impoundment wall or can slowly leach into groundwater and surface water when the impoundment is unlined. Our constituents deserve to be able to count on safe drinking water and to have their waterways protected from harmful contaminants.

Major coal ash spills in 2014 into the Dan River in North Carolina and in 2008 in Kingston, Tennessee are examples of full impoundment failures and show that our constituents must be better protected. Both spills originated from wet coal ash impoundments located near power plants adjacent to rivers where the failure of impoundment walls sent harmful chemicals directly into the waterways. The Dan River spill caused coal ash to travel 70 miles downstream and the Kingston spill caused more than one billion gallons of coal ash to enter the water supply and destroyed residential communities. The EPA has evaluated wet coal ash impoundments across the country and found more than 300 sites which would endanger human life, or cause significant economic, environmental, or infrastructure damage if full failures occurred.

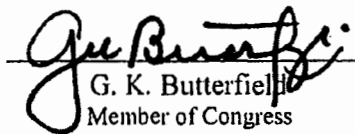
The Honorable Gina McCarthy  
June 17, 2014  
Page 2

Far more common than full impoundment failure is the slow leaching of coal ash contaminants from wet impoundments into ground and surface waters. The majority of wet impoundments across the country lack adequate liners and groundwater monitoring systems. The EPA has identified more than 200 cases of water contamination from coal ash in 27 states.

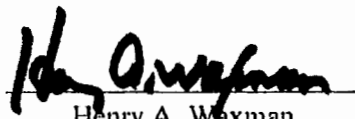
It appears we are only now beginning to see the alarming truth about coal ash in our communities. It is troubling that it has taken large coal ash spills like those in North Carolina and Tennessee to mobilize stakeholders to engage in a frank dialogue about its dangers and propose changes to mitigate those hazards. Those catastrophes could have been avoided and we owe it to all Americans to put the necessary safeguards in place to ensure similar disasters do not occur in the future.

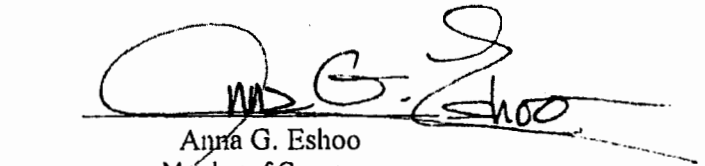
Thank you for your attention to this matter. We look forward to its timely resolution.

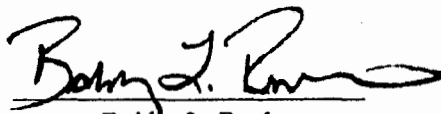
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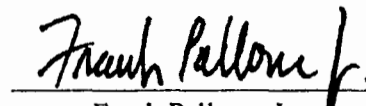
  
G. K. Butterfield  
Member of Congress

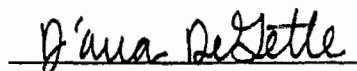
  
David Price  
Member of Congress

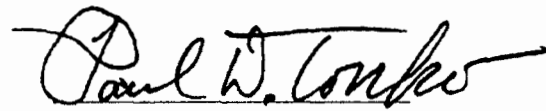
  
Henry A. Waxman  
Member of Congress

  
Anna G. Eshoo  
Member of Congress

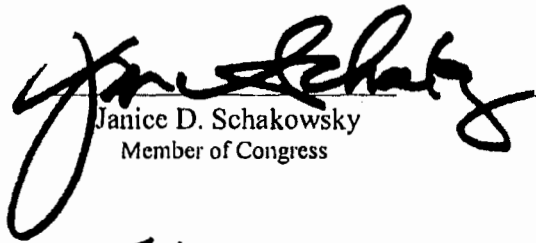
  
Bobby L. Rush  
Member of Congress

  
Frank Pallone, Jr.  
Member of Congress

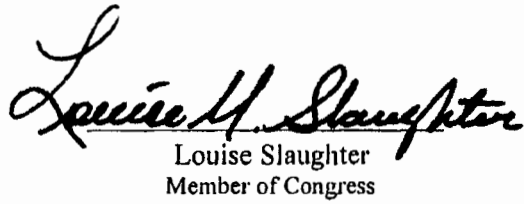
  
Diana DeGette  
Member of Congress

  
Paul Tonko  
Member of Congress

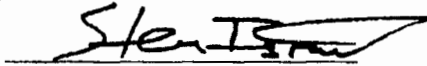




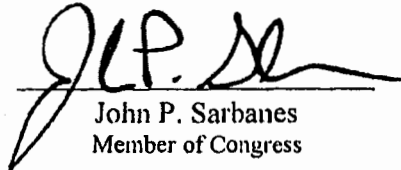
Janice D. Schakowsky  
Member of Congress



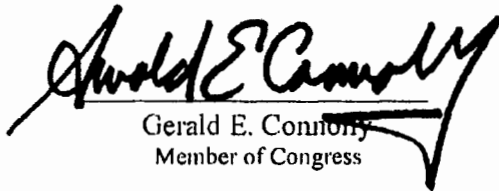
Louise Slaughter  
Member of Congress



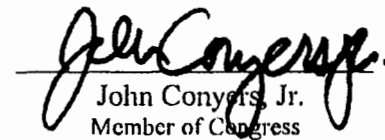
Steve Israel  
Member of Congress



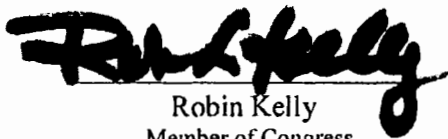
John P. Sarbanes  
Member of Congress



Gerald E. Connolly  
Member of Congress



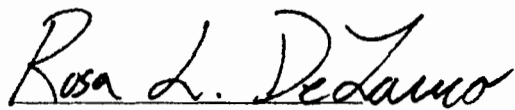
John Conyers, Jr.  
Member of Congress



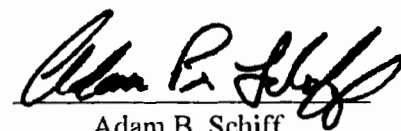
Robin Kelly  
Member of Congress



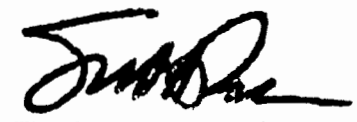
C. A. Dutch Ruppersberger  
Member of Congress



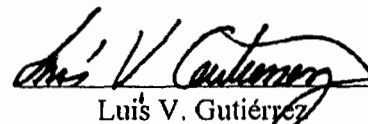
Rosa L. DeLauro  
Member of Congress



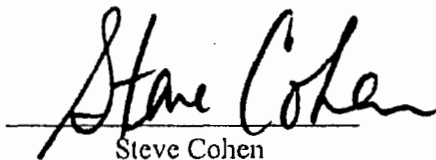
Adam B. Schiff  
Member of Congress



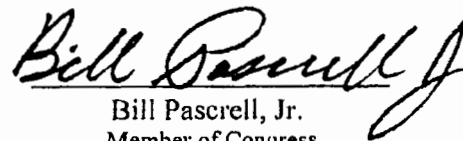
Scott Peters  
Member of Congress



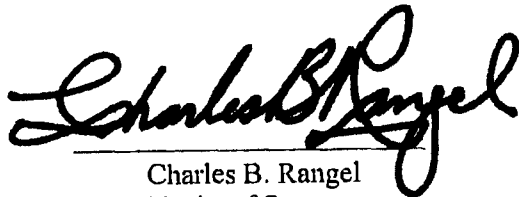
Luis V. Gutierrez  
Member of Congress

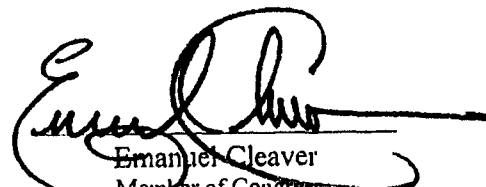


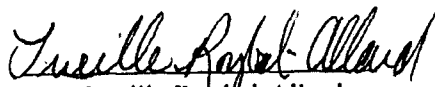
Steve Cohen  
Member of Congress




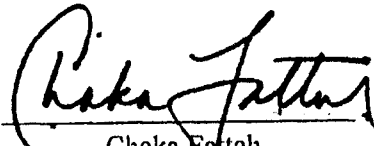
Bill Pascrell, Jr.  
Member of Congress

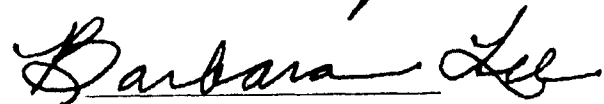
  
Charles B. Rangel  
Member of Congress

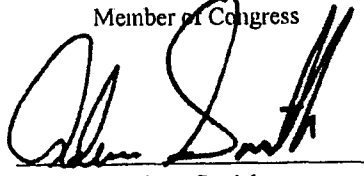
  
Emanuel Cleaver  
Member of Congress


  
Lucille Roybal-Allard  
Member of Congress

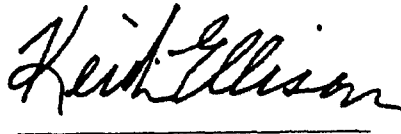
  
Carolyn Maloney  
Member of Congress

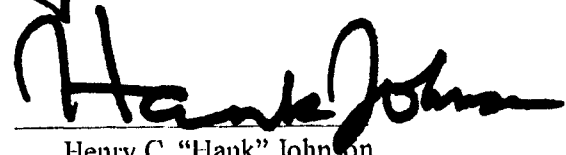
  
Chaka Fattah  
Member of Congress

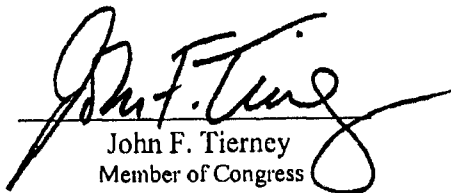
  
Barbara Lee  
Member of Congress

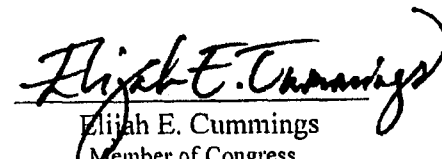
  
Adam Smith  
Member of Congress

  
James P. Moran  
Member of Congress

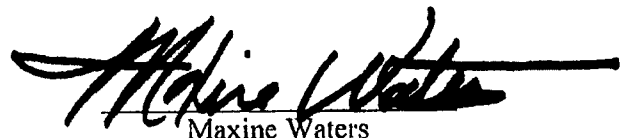
  
Keith Ellison  
Member of Congress

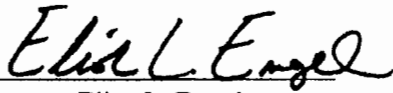
  
Henry C. "Hank" Johnson  
Member of Congress

  
John F. Tierney  
Member of Congress

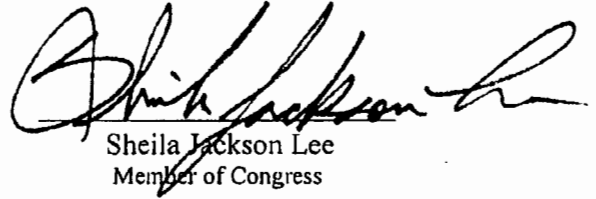
  
Elijah E. Cummings  
Member of Congress

  
Lois Capps  
Member of Congress

  
Maxine Waters  
Member of Congress



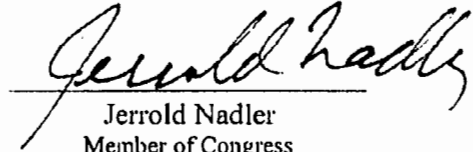
Eliot L. Engel  
Member of Congress



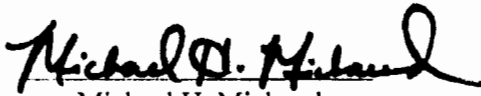
Sheila Jackson Lee  
Member of Congress



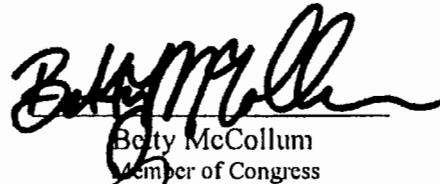
Eleanor Holmes Norton  
Member of Congress



Jerrold Nadler  
Member of Congress



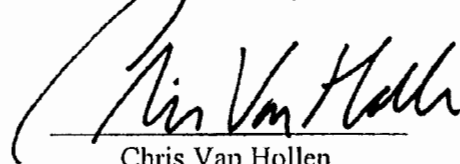
Michael H. Michaud  
Member of Congress



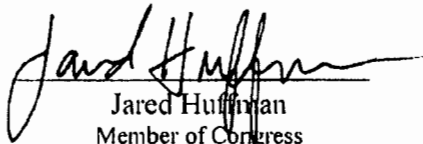
Betty McCollum  
Member of Congress



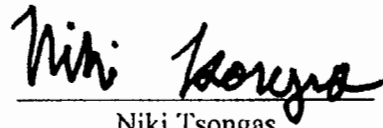
Michael M. Honda  
Member of Congress



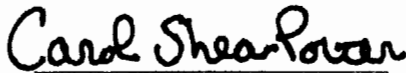
Chris Van Hollen  
Member of Congress



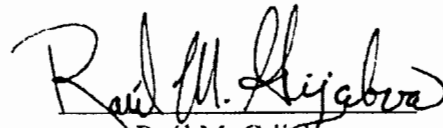
Jared Huffman  
Member of Congress



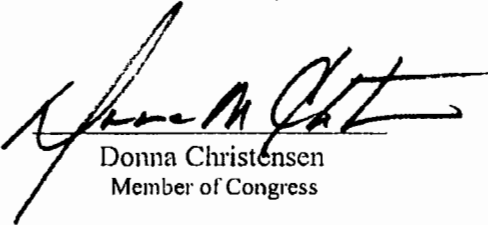
Niki Tsongas  
Member of Congress



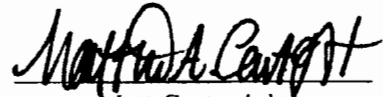
Carol Shea-Porter  
Member of Congress



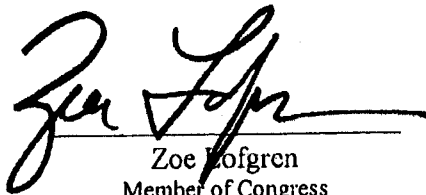
Raúl M. Grijalva  
Member of Congress



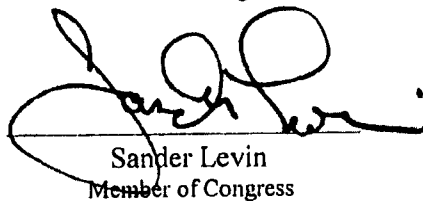
Donna Christensen  
Member of Congress

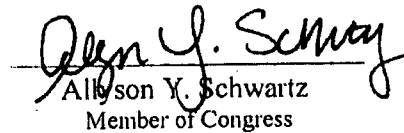


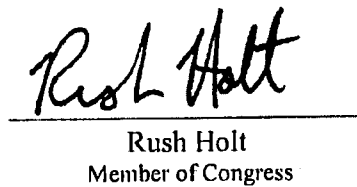
Matt Cartwright  
Member of Congress

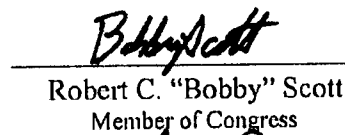
  
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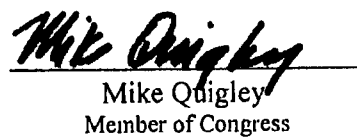
  
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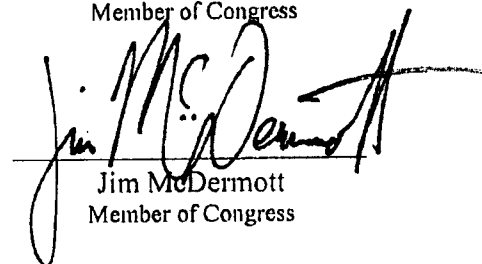
  
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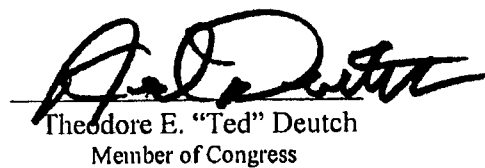
  
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Member of Congress

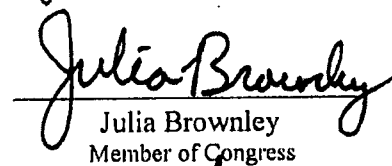
  
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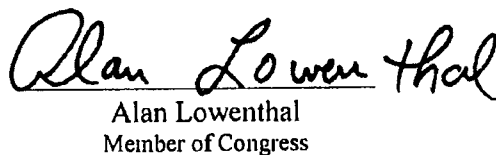
  
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Member of Congress

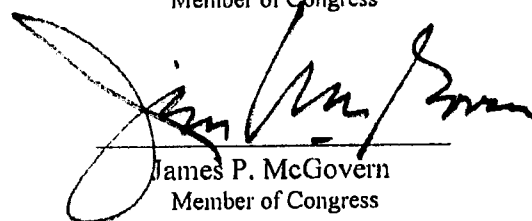
  
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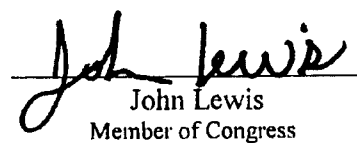
  
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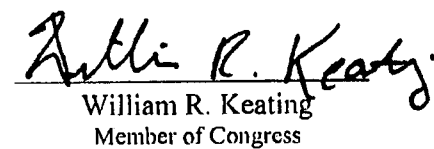
  
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Member of Congress

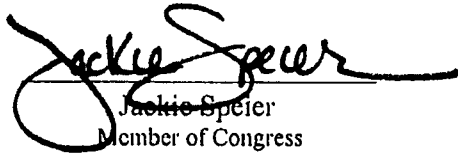
  
Julia Brownley  
Member of Congress

  
Alan Lowenthal  
Member of Congress


  
James P. McGovern  
Member of Congress


  
John Lewis  
Member of Congress

  
William R. Keating  
Member of Congress

  
Jackie Speier  
Member of Congress

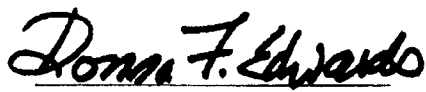
  
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Member of Congress

  
Lloyd Doggett  
Member of Congress

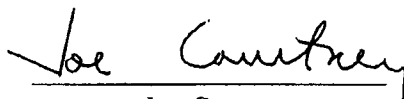
  
David Cicilline  
Member of Congress


  
James Langevin  
Member of Congress

  
Ann McLane Kuster  
Member of Congress


  
Donna F. Edwards  
Member of Congress

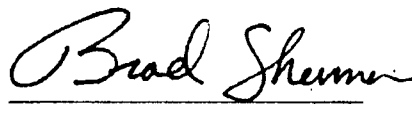
  
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Member of Congress

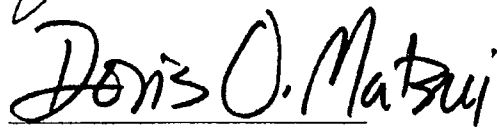
  
Joe Courtney  
Member of Congress

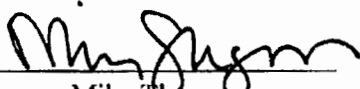
  
Earl Blumenauer  
Member of Congress

  
Sam Farr  
Member of Congress

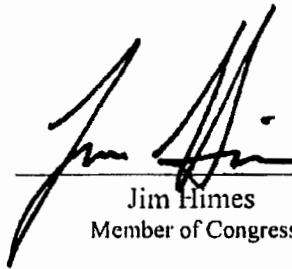
  
José E. Serrano  
Member of Congress

  
Brad Sherman  
Member of Congress


  
Doris O. Matsui  
Member of Congress



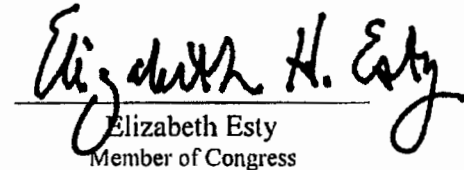
Mike Thompson  
Member of Congress



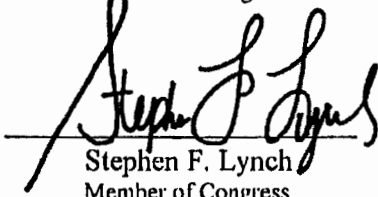
Jim Himes  
Member of Congress



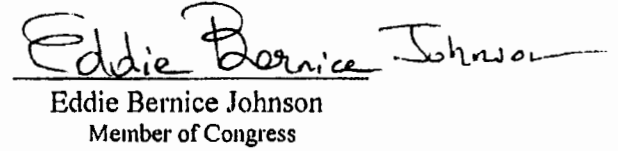
George Miller  
Member of Congress



Elizabeth Esty  
Member of Congress



Stephen F. Lynch  
Member of Congress



Eddie Bernice Johnson  
Member of Congress



Brad Schneider  
Member of Congress

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG - 7 2014

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Brad Schneider  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your letter of June 17, 2014, to the U.S. Environmental Protection Agency (EPA) expressing your support for strong federal standards for the safe disposal of coal ash. I appreciate your interest in this important issue.

In 2010, the EPA proposed a rule that sought public comments on several approaches to regulate the disposal of coal combustion residuals (CCRs) under the Resource Conservation and Recovery Act (RCRA). The two proposed options would require liners, ground water monitoring, and corrective action to help protect ground water from contamination. The EPA also proposed to establish dam safety requirements to address the structural integrity of surface impoundments to prevent future catastrophic releases of CCRs under the two options.

The agency will finalize the rule pending a full evaluation of all the information and comments received on the rule and additional Notices of Data Availability. The EPA is working to complete a final rule by December of this year.

Again, thank you for your letter and sharing your views on the EPA's proposed regulation of CCRs. If you have further questions, please contact me or your staff may contact Carolyn Levine, in the EPA's Office of Congressional and Intergovernmental Relations, at [levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov) or at (202) 564-1859.

Sincerely,

Mathy Stanislaus  
Assistant Administrator

# Congress of the United States

Washington, DC 20515

AL-15-000-0631

October 10, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

The Honorable John M. McHugh  
Secretary  
Department of Army  
The Pentagon, Room 3E700  
Washington, D.C. 20310

Dear Administrator McCarthy and Secretary McHugh,

We are proud to represent the Great Lakes Basin in the United States House of Representatives. Preserving and restoring wetlands and streams is critical to Great Lakes restoration and to the long-term success of the Great Lakes Restoration Initiative. We write to express our support for your Administration's proposed rule to restore Clean Water Act protections to nearly two million miles of streams and millions of acres of wetlands. We are pleased to see that the proposed rule protects tributary streams and waters adjacent to such streams. As the proposed rule makes clear, the science on the biological, chemical and physical connections between these waters, wetlands termed "other waters," and downstream water bodies is straightforward. Please move forward with prompt but careful consideration of this rulemaking, continuing to rely on the science as you consider how to best ensure our waterways are safe from dangerous pollution, flooding and other types of degradation.

For years the Clean Water Act helped conserve all wetlands and tributaries in the Great Lakes region — those by the shore and those inland. Many of these wetlands, streams, and small lakes have been at increased risk of pollution and destruction following Supreme Court decisions in 2001 and 2006 that created a confusing, time consuming, and frustrating process for determining what waters are protected under federal law. However, the Administration's April 21, 2014 proposal would provide greater long-term regulatory certainty for landowners and enhance conservation for streams, wetlands, and waters in the Great Lakes states and nationwide.

In addition to providing certainty to longstanding policies, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (ACOE) have coordinated with the U.S. Department of Agriculture's (USDA) Natural Resources Conservation Service (NRCS) to develop an interpretive rule to ensure 56 NRCS conservation practices that improve water quality and do not destroy wetlands and streams will be exempt from Section 404 dredged or fill permitting requirements. Farmers across the Great Lakes are already incorporating these practices, which include irrigation field ditches, wetland restoration and enhancement, and filter strips. The NRCS is working directly with agricultural producers in Illinois, Michigan, Pennsylvania and Ohio to implement conservation practices to address habitat and wildlife protection and restoration, reduce soil erosion and nutrient loading, and reduce terrestrial invasive species through the Great Lakes Restoration Initiative (GLRI). By exempting these practices from Section 404 permitting requirements, the EPA and the ACOE will make it easier for farmers who choose to undertake these types of conservation projects on their land, and encourage broader adoption across the Basin. We are encouraged by the intent and goals of the interpretive rule along with previous efforts made to reach out to those who will be impacted. We urge you to provide more education and outreach to stakeholders in order to insure the rule is workable for all.

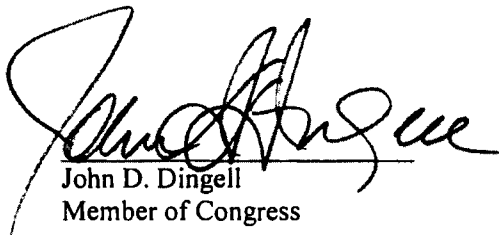


The GLRI has invested hundreds of millions of dollars across the Basin, making significant progress in addressing the longstanding environmental challenges confronting the Great Lakes that threaten the economic health of our communities. However, this investment will not be successful in the long-term if we don't protect the small streams and wetlands that feed into the Great Lakes. That is why we urge you to finalize this rule swiftly and efficiently to ensure that protections against pollution will again apply to these critical waters, including thousands of the streams that feed into drinking water systems serving 30.6 million in the Great Lakes Basin and 117 million Americans across our nation.

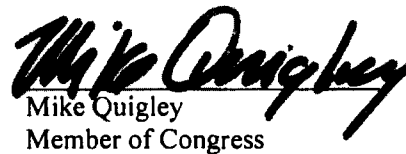
We stand ready to work with you and the Obama Administration to help put America on a path towards a future where all our waterways are safe from dangerous pollution.

Thank you for your support and leadership.

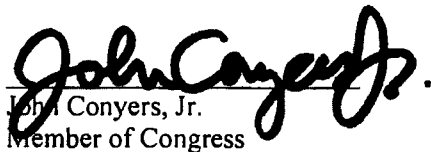
Sincerely,



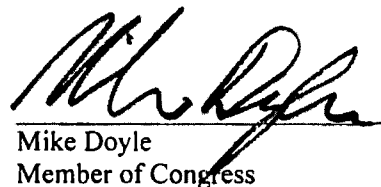
John D. Dingell  
Member of Congress



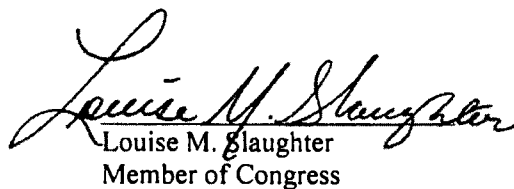
Mike Quigley  
Member of Congress



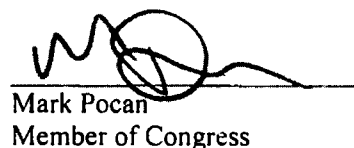
John Conyers, Jr.  
Member of Congress



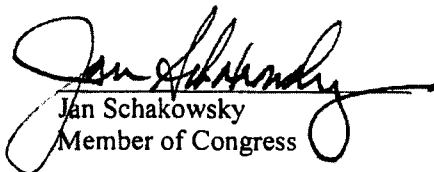
Mike Doyle  
Member of Congress



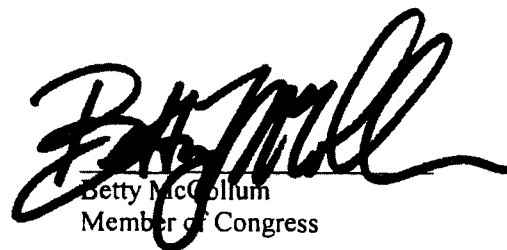
Louise M. Slaughter  
Member of Congress



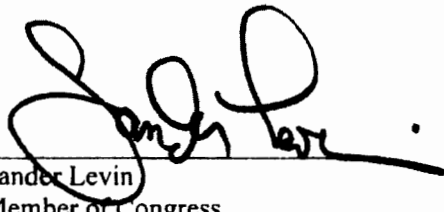
Mark Pocan  
Member of Congress



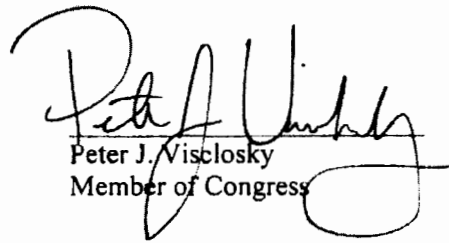
Jan Schakowsky  
Member of Congress



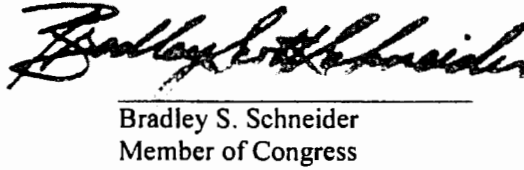
Betty McCollum  
Member of Congress



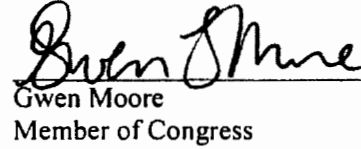
Sander Levin  
Member of Congress



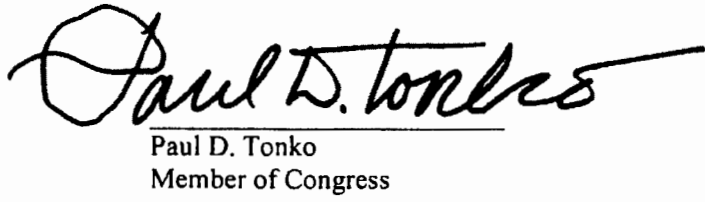
Peter J. Visclosky  
Member of Congress



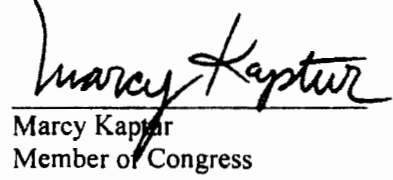
Bradley S. Schneider  
Member of Congress



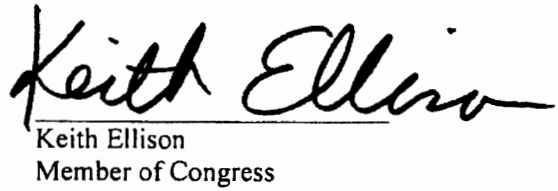
Gwen Moore  
Member of Congress



Paul D. Tonko  
Member of Congress



Marcy Kaptur  
Member of Congress



Keith Ellison  
Member of Congress



DEC 22 2014



The Honorable Bradley S. Schneider  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Schneider:

Thank you for your October 10, 2014, letter to the U.S. Environmental Protection Agency and the U.S. Department of the Army regarding the EPA's and the U.S. Department of the Army's proposed rulemaking to define the scope of the Clean Water Act consistent with science and the decisions of the Supreme Court. The agencies' current rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

We appreciate your concern regarding the importance of working effectively with the public as the rulemaking process moves forward. We are actively working to respond to this critical issue. In order to afford the public greater opportunity to benefit from the EPA Science Advisory Board's reports on the proposed jurisdictional rule and on the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies extended the public comment period on the proposed rule to November 14, 2014.

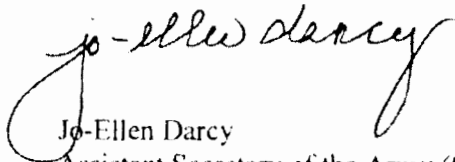
During the public comment period, the agencies met with stakeholders across the country to facilitate their input on the proposed rule. We talked with a broad range of interested groups including farmers, businesses, states and local governments, water users, energy companies, coal and mineral mining groups, and conservation interests. In October 2014, the EPA conducted a second small business roundtable to facilitate input from the small business community, which featured more than 20 participants that included small government jurisdictions as well as construction and development, agricultural, and mining interests. Since releasing the proposal in March, the EPA and the Corps conducted unprecedented outreach to a wide range of stakeholders, holding nearly 400 meetings all across the country to offer information, listen to concerns, and answer questions. The agencies recently completed a review by the Science Advisory Board on the scientific basis of the proposed rule and will ensure the final rule effectively reflects its technical recommendations. These actions represent the agencies' commitment to provide a transparent and effective opportunity for all interested Americans to participate in the rulemaking process.

It is important to emphasize that the proposed rule would reduce the scope of waters protected under the Clean Water Act compared to waters covered during the 1970s, 80s, and 90s to conform to decisions of the Supreme Court. The rule would limit Clean Water Act jurisdiction only to those types of waters that have a significant effect on downstream traditional navigable waters - not just any hydrologic connection. It would improve efficiency, clarity, and predictability for all landowners, including the nation's farmers, as well as permit applicants, while maintaining all current exemptions and protecting public health, water quality, and the environment. It uses the law and sound, peer-reviewed science as its cornerstones.

America thrives on clean water. Clean water is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. We are eager to define the scope of the Clean Water Act so that it achieves the goals of protecting clean water and public health, and promoting jobs and the economy.

Thank you again for your letter. We look forward to working with Congress as our Clean Water Act rulemaking effort moves forward. Please contact us if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836, or Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at [charles.r.smith567.civ@mail.mil](mailto:charles.r.smith567.civ@mail.mil) or (703) 693-3655.

Sincerely,



Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
U.S. Department of the Army



Kenneth J. Kopocis  
Deputy Assistant Administrator for Water  
U.S. Environmental Protection Agency

AL-16-000-1223

**Congress of the United States**  
Washington, DC 20515

November 4, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy,

We write to express significant concern with the recently proposed 2016 Renewable Volume Obligations (RVO) under the Renewable Fuel Standard (RFS). The RVO as currently proposed would constitute a breach of the ethanol blendwall, which would cause adverse impacts on American consumers and the economy.

Congress expanded the RFS when it passed the Energy Independence and Security Act of 2007 (EISA). EISA mandated an annually increasing volume of biofuel to be blended and consumed in the nation's motor fuel supply, reaching 36 billion gallons of biofuels in 2022. In 2007, the market assumptions regarding the future of transportation fuels in the United States were very different from the realities of the market today. The Energy Information Administration (EIA) at the time projected motor gasoline demand to significantly rise through 2022<sup>1</sup>. Since then, EIA has revised its 2007 projection of motor gasoline in 2022 downward by 27% and projects motor gasoline demand to continue to decline through 2035<sup>1</sup>.

Increased fuel efficiency has led to shrinking gasoline demand. This current reality, coupled with an increasing biofuel blending level requirement, has exacerbated the onset of the E10 blendwall—the point at which the gasoline supply is saturated with the maximum amount of ethanol that the current vehicle fleet, marine and other small engines, and refueling infrastructure can safely accommodate. We agree with the EPA's conclusion in its first RVO proposal for 2014 and in its current proposal for 2014, 2015, and 2016 that the E10 blendwall is a binding constraint.

We are gravely concerned, however, that despite the Agency's recognition of the blendwall, the 2016 proposal acknowledges that it will be breached nonetheless. Specifically, EPA states that the 2016 RVO "includes volumes of renewable fuel that will require either ethanol use at levels significantly beyond the level of the E10 blendwall, or significantly greater use of non-ethanol renewable fuels than has occurred to date."<sup>2</sup>

<sup>1</sup> Energy Information Administration, *Annual Energy Outlook 2007-2015*, Reference Case Table 11

<sup>2</sup> Federal Register, Vol. 80, No. 111, Wednesday, June 10, 2015, Proposed Rules (p.33102), *EPA Renewable Fuel Standard Program: Standards for 2014, 2015, and 2016 and Biomass-Based Diesel Volume for 2017; Proposed Rule*

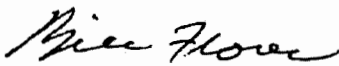
The Honorable Gina McCarthy  
Page 2

Multiple studies have shown detrimental economic harm may be caused by breaching the E10 blendwall. A 2014 report on the RFS by the nonpartisan Congressional Budget Office concluded that requiring the volumes of biofuel in EISA, which would breach the blendwall, could increase the price of E10 gasoline by up to 26 cents per gallon<sup>3</sup>. NERA concludes in a July 27, 2015 study that "higher gasoline prices leave consumers with less disposable income<sup>4</sup>", further hindering economic growth. An RFS study by Charles River Associates concurs: "The result [of exceeding the blendwall] will be limited availability, higher consumer costs, and fewer sales of conventional transportation fuels<sup>5</sup>." This adverse economic harm falls hardest on America's lower income families.

EPA acknowledges that its 2016 RVO proposal would require significant greater use of E15 and E85 in order to meet the proposed mandate in 2016. Therefore, this proposal is problematic not only in principle, but it is also impractical since it would take decades, not months, to build out the compatible vehicle fleet and install the necessary retail infrastructure to accommodate the higher blends of ethanol. AAA calculates that only 5% of the vehicles on the road are approved to use E15<sup>6</sup> and the EIA calculates that only 6% of vehicles can use E85<sup>7</sup>. The refueling retail infrastructure is even more limited with only 2% of retail stations selling E85<sup>8</sup> and only 100 stations nationwide selling E15<sup>9</sup>.

Congress will continue its work toward a bipartisan solution to deal with the RFS. As this work continues, it is critical that EPA use its statutory authority to waive EISA's conventional biofuel volume to keep the blending requirements below the E10 blendwall, and to help limit the economic and consumer harm this program has already caused.

Sincerely,



Bill Flores  
Member of Congress



Peter Welch  
Member of Congress



Bob Goodlatte  
Member of Congress



Jim Costa  
Member of Congress



Steve Womack  
Member of Congress

<sup>3</sup> Congressional Budget Office, *The Renewable Fuel Standard: Issues for 2014 and Beyond* (June 2014)

<sup>4</sup> NERA Economic Consulting, *Economic Impacts Resulting from Implementation of RFS2 Program* (July 2015)

<sup>5</sup> Charles River Associates, *Impact of the Blend Wall Constraint in Complying with the Renewable Fuel Standard* (November 2011)

<sup>6</sup> American Automobile Association, Press Release "New E15 Gasoline May Damage Vehicles and Cause Consumer Confusion" (December 2012)

<sup>7</sup> Energy Information Administration, *Annual Energy Outlook 2014*

<sup>8</sup> Fuels Institute, *E85: A Market Performance Analysis and Forecast* (2014)

<sup>9</sup> Renewable Fuels Association data ([www.ethanolrfa.org](http://www.ethanolrfa.org))

Jeff Piacom

Zou Barletta

Bob Bry

Glenn Thompson

Alan Kessel

Thomas Chie

Jim Heck

Gary Johnson

Jim Bidenstein

Tom Zick

Bill Posey

Rob Boff

Phm

Bruce Westerman

Minel McCarl

Art R

Jacqueline Castro

Don B Lorie

Robert J. Dald

Neil R. Pitzer

D.C. Orr

~~Robert A. Bernick~~

Maria Z. Miller

Kim B. Brown

Thomas Massie

Will Hurd

Joseph M. Lopez

Tom Lizza

Barbara Comstock

Charles J. Elwell

St. J. De

Bryan Burroughs

Gregg Harper

Diana Labin

Al. Hanna

Ru. Orr



Fry Costello

Denny Heck

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Ch. Stewart

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Don Brink

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F. H. Vele

M. J. P. P.

John P. Clark

Earl L. Buddy Carter

Nichol Hudson

Mike Bishop

R. L. L.

1 Devin Nunn

Rais Lunkel

Blake Funtkelet

Kay Hansen

~~John J. J.~~

Quinn Herrera Bender

W. May Jr VA-9

Mark McSally

Quinn Black

N. N.

Mark Wayne Miller

Kenneth J. Allen

Alex X. Mooney

Mo Brooks

D. Annunzio (AR-2)

Paul Cook

Chin Collins (NY-27)

Keith J. Rothfus

W. J. J.

~~CPA~~

Ally Lang

David

J. Jadar

Julie Rice

Andy Barr

Chris Campbell

Paul Miller TX-19

Robert Williams

Dan Ambrose

Raul R. Labrador

Chris Kelly

Zu Zhi NY-01

Doug Collins GA-9

CW Boush A

D & L

Trey Gandy

David R. Anthony

Andreas

Rob Woodall

Rich Taylor

Ice Barton

John Carter

Sen. M. Bilirakis

Pete Olson

Mark Sanford

John G. ...

Pete DeFazio

Andre Buckner

John ...

Doug Walker

D. ...

Chell R

[Signature]

Lynne Whitmeyer

Mac ...

Hy Chellae  
Charles W Dent

Paul H

Dan Rabin

John Hauschild

Sam Johnson

Joe Wilson

Ed Royce

Scott Garrett

Mike Spivey

Jeff Sessions

Kerry Meade

Kevin Lehman

Rubin Hinojosa

Martha Blackburn

John Butterfield

Bill Sum

PPH Jones

*Ken Young*

*Steve Seale*

*Walter B. Jones*

*Virginia Foxx*

*St. Hakt*

*Paul Smith*

*Lamar Smith*

*Austin Scott*

*Frank A. L. Biondo*

*J. M. Ch...*

*J. K. ...*

*Jeff ...*

*Leonard ...*

*John Culberson*

*Doug Latham*

*AMM*

*Mike ...*

*Tim Murphy*

Donna Hunt

Kurt Schneider

Steve Fauer

Lyndia D. Summies

Kent P. Banks  
Tom Reed NY 23

Tim Walberg  
Tom Graves

Walt Cohen

Ben R. Lujan

James H. McGovern WI-05

Er. Gb

Steve L. Fink

Dra. Green

Robert J. Wittman

L. J. McIntyre

Bruce Soliquin

Kevin McCarthy



The Honorable Gina McCarthy  
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Bradley Byrne	Rob Bishop
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Steve Russell	Bruce Westerman
Tom Price	Michael T. McCaul
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Gary Palmer	Joaquin Castro
Jim Bridenstine	Mia B. Love

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Robert Pittenger	Barbara Comstock
Dennis A. Ross	Charles J. "Chuck" Fleischmann
Robert Aderholt	Cedric Richmond
Mimi Walters	Barry Loudermilk
Kevin Brady	Gregg Harper
Thomas Massie	Brian Babin
Will Hurd	Richard Hanna
Doug LaMalfa	Ron DeSantis

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Denny Heck	Peter King
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Scott DesJarlais	John Ratcliffe
David B. McKinley	Chris Stewart
David Schweikert	Steven M. Palazzo

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Rick Allen	Filemon Vela
Ted Yoho	Mike Pompeo
Randy K. Weber, Sr.	Patrick Meehan
George Holding	Earl L. "Buddy" Carter
Tom MacArthur	Richard Hudson
Paul Gosar	Mike Bishop
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Glenn Grothman	Devin Nunes

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Martha McSally	Diane Black
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Mo Brooks	French Hill
Paul Cook	Chris Collins
Keith Rothfus	Scott Perry

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Billy Long	Raul R. Labrador
Andy Harris	Mike Kelly
Jim Jordan	Lee Zeldin
Jody Hice	Doug Collins
Andy Barr	Charles W. Boustany, Jr.
Carlos Curbelo	Trent Kelly
Randy K. Neugebauer	Trey Gowdy
Roger Williams	Bradley Wenstrup

Page 9	
Eric A. "Rick" Crawford	Peter DeFazio
Rob Woodall	Ander Crenshaw
Richard Nugent	John Fleming
Joe Barton	Gregg Walden
John Carter	David W. Jolly
Gus M. Bilirakis	Chellie Pingree
Pete Olson	John Mica
Mark Sanford	Lynn Westmoreland
John J. Duncan, Jr.	Mac Thornberry

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Henry Cuellar	Darrell E. Issa
Charles W. Dent	Dana Rohrabacher
Jeb Hensarling	Sam Johnson
Joe Wilson	Edward R. Royce
Scott Garrett	Michael K. Simpson
Pete Sessions	Kenny Marchant
Louie Gohmert	Ruben Hinojosa
Marsha Blackburn	G. K. Butterfield
Bill Shuster	Rodney P. Frelinghuysen

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Steve Scalise	Michael C. Burgess
Walter B. Jones	Matt Salmon
Virginia Foxx	Leonard Lance
Steve Chabot	John Abney Culberson
Christopher H. Smith	Doug Lamborn
Lamar Smith	Ted Poe
Austin Scott	Mick Mulvaney
Frank A. LoBiondo	Tim Murphy

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Duncan Hunter	Kurt Schrader
Stevan Pearce	Cynthia Lummis
Trent Franks	Tim Walberg
Tom Reed	Tom Graves
Mike Coffman	Ben Ray Lujan
F. James Sensenbrenner	Tom Cole
Stephen Fincher	Gene Green
Robert J. Wittman	K. Michael Conaway
Bruce Poliquin	Kevin McCarthy



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 16 2011

OFFICE OF  
AIR AND RADIATION

The Honorable Robert Dold  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Dold:

Thank you for your letter dated October 26, 2011, co-signed by 10 of your colleagues, in which you express concerns about the impact of Tier 4 engine emission regulations on Federal Signal Corporation (Federal Signal). As you may be aware, Federal Signal submitted a request to the U.S. Environmental Protection Agency on October 12, 2011, seeking hardship relief from the Tier 4 requirements. Since then, we have been working with the company to determine its eligibility for additional exemption allowances beyond those already provided under our regulations.

We give careful and serious consideration to hardship applications such as the one we received from Federal Signal. We are deliberate to ensure that our actions do not create any market disruptions or provide those companies granted hardship relief with competitive advantages over other companies that have been able to comply with the applicable regulations. Thus far we have had productive exchanges with Federal Signal and intend to render a decision within the next few weeks.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3668.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", is positioned above the printed name.

Gina McCarthy  
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 23 2015

OFFICE OF  
AIR AND RADIATION

The Honorable Robert J. Dold  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Dold:

Thank you for your letter of November 4, 2015, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding your concerns that the proposed standards for 2014 - 2016 under the Renewable Fuel Standard (RFS) program fall short of the statutory targets. The Administrator has asked me to respond to you on her behalf.

Under the Clean Air Act, as amended by the Energy Independence and Security Act of 2007, the EPA is required to set annual standards for the RFS program each year. The statute requires the EPA to establish annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuels that apply to gasoline and diesel produced or imported in a given year.

In our June 10, 2015, proposal we made a preliminary determination that the market would experience significant uncertainty if the EPA were to ignore the constraints on supply and set the standards at the statutory targets, as we expect that there would be widespread shortfalls in supply under those circumstances. The proposal sought to balance two dynamics: Congress's clear intent to increase renewable fuels over time to address climate change and increase energy security, and real-world circumstances that have slowed progress towards such goals. In order to provide the certainty that investors and others in the market need, we proposed using the tools Congress provided to make adjustments to the law's volume targets. Though we proposed using the authority provided by Congress, we nevertheless proposed standards for cellulosic biofuel, advanced biofuel, and total renewable fuel that would result in ambitious, achievable growth in biofuels.

We held a public hearing on the proposal on June 25, 2015, in Kansas City, Kansas, where over 200 people provided testimony. Further, we received over 670,000 comments from the public comment period, which closed on July 27, 2015. We are taking those comments, as well as the thoughts you provided in your letter, under consideration as we prepare the final rulemaking which we intend to finalize by November 30, 2015.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", with a stylized flourish at the end.

Janet G. McCabe  
Acting Assistant Administrator

AL-11-001-8229

**Congress of the United States**  
**Washington, DC 20515**

October 26, 2011

Administrator Lisa P. Jackson  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson,

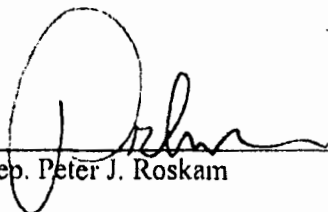
We are writing to you today in support of Oak Brook, Illinois-based Federal Signal Corporation's request for an exemption from certain engine requirements for 2012 in order to prevent serious economic hardship to the company and its employees. The company has made this request for an exemption under existing EPA authority.

Federal Signal is deserving of an exemption due to the fact that, for reasons beyond its control, the company has been unable to procure engines needed to equip its environmental service vehicles. Engine manufacturers have experienced greater than normal technical issues in providing new Tier 4i engines, difficulties that were not contemplated in the original 2004 rule.

Of particular concern to us is that Federal Signal will have to scale back production at its manufacturing facilities should it not receive an exemption. The jobs of around 300 workers will be threatened in the absence of a waiver that would only affect around 300 engines nationwide. Illinois now has a 10 percent unemployment rate, and any additional layoffs will exacerbate an already difficult economic climate in our State.

Federal Signal has been manufacturing in Illinois for over 90 years and merits the granting of this temporary relief due to the unusual circumstances that have placed the company into its current position.

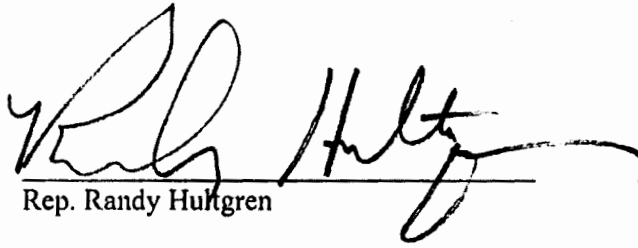
Sincerely,


  
Rep. Peter J. Roskam

  
Senator Mark Kirk

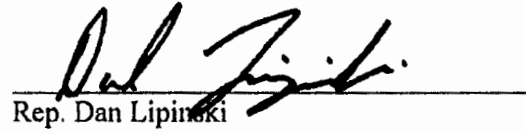
  
Rep. Judy Biggert

  
Rep. Robert Dold

  
Rep. Randy Hultgren

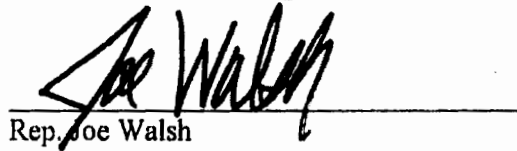
  
Rep. Timothy V. Johnson

  
Rep. Adam Kinzinger

  
Rep. Dan Lipinski

  
Rep. Donald Manzullo

  
Rep. Aaron Schock

  
Rep. Joe Walsh

AL-15-001-2208

**Congress of the United States**  
**Washington, DC 20515**

July 31, 2015

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy:

It has been brought to our attention that EPA currently is using the pre-manufacture notice (PMN) process for new chemicals under Section 5 of the Toxic Substances Control Act (TSCA) to review medium-chain and long-chain chlorinated paraffins (MCCP and LCCP).

Many in the industry have concerns about the EPA's use of TSCA's new chemical provisions to eliminate these chemicals without public notice-and-comment procedures. TSCA's Section 5 PMN process does not provide for public review and comment on either the risk assessments behind EPA's decision, or the Agency's proposed action on a particular PMN, severely disadvantaging stakeholders who use MCCP and LCCP.

Furthermore, EPA has placed MCCP and LCCP in its TSCA Chemical Work Plan and indicated in its "Peer Review Plan" under that program that there would be opportunities for public review and comment, and an independent expert peer review of EPA's risk assessment of MCCP and LCCP.

Finally, a planned deadline of May 31, 2016, would force the U.S. manufacturers that make and use MCCP and LCCP to re-formulate, test and seek approvals for their operations and products using alternative materials. In some cases, substitutes may not be available, and, in other cases, substitution may take years.

We request that the EPA explain why the Agency is using a consent order process, rather than either issuing a significant new use rule or proceeding under the TSCA Work Plan to address MCCP and LCCP. Additionally, we request EPA provide us with the new data that have been developed on MCCP and LCCP and explain any additional environmental exposures that EPA believes to be occurring. Considering that these substances have been in commerce for more than 70 years, plus the implications to U.S. manufacturing as well as the Departments of Defense and Energy if they were to be removed from the market, EPA's action to ban MCCP and LCCP should be taken only if, after careful and transparent stakeholder involvement and independent peer review, the science supports such an action, with an appropriate transition time.

The EPA should undertake the Peer Review Plan for MCCP and LCCP that it has outlined under the TSCA Chemical Work Plan program prior to taking final action on the PMNs for these substances.



The additional transparency provided by the Peer Review Plan is appropriate and necessary to ensure understanding of the proposed actions, and more fully evaluate the implications of a cessation of the manufacture and import of MCCP and LCCP to U.S. manufacturers.

Your prompt consideration of this request is greatly appreciated.

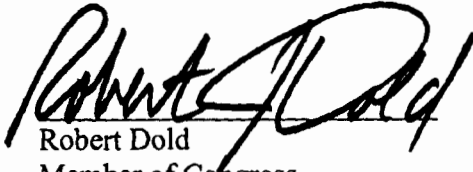
Sincerely,



Bob Gibbs  
Member of Congress



Rick Crawford  
Member of Congress



Robert Dold  
Member of Congress



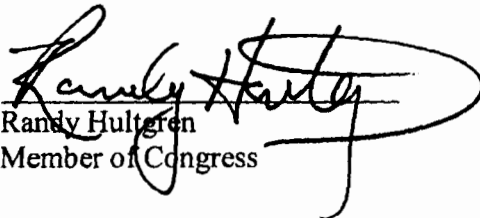
Pat Tiberi  
Member of Congress



David Joyce  
Member of Congress



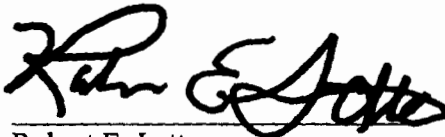
Bill Johnson  
Member of Congress




Randy Hultgren  
Member of Congress



Lynn Westmoreland  
Member of Congress



Robert E. Latta  
Member of Congress



Dave Trott  
Member of Congress

A handwritten signature in cursive script that reads "Ed Royce".

Ed Royce  
Member of Congress

A handwritten signature in cursive script that reads "Morgan Griffith".

Morgan Griffith  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON D.C., 20460

FEB 17 2016

The Honorable Robert Dold  
House of Representatives  
Washington, D.C. 20515

OFFICE OF  
CHEMICAL SAFETY AND  
POLLUTION PREVENTION

Dear Congressman Dold:

Thank you for your letter of July 31, 2015, to the U.S. Environmental Protection Agency (EPA) regarding the pre-manufacture notice (PMN) process for new chemicals under Section 5 of the Toxic Substances Control Act (TSCA) and the process that the agency is using to address medium-chain and long-chain chlorinated paraffins (MCCP and LCCP).

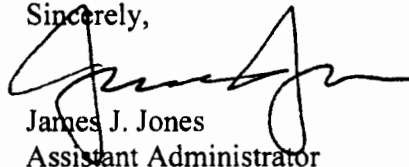
The EPA is reviewing MCCP and LCCP chemicals as part of our New Chemicals Review Program under the Toxic Substances Control Act (TSCA). This is the result of settlements in 2012 resolving violations of the TSCA pre-manufacture notice obligations for production and import of various chlorinated paraffins. As part of consent decrees between the Department of Justice (DOJ), the EPA and Dover Chemical, and separately between DOJ, the EPA and INEOS Chlor Americas (now INOVYN Americas, Inc), the companies were required to cease domestic manufacture and import of the closely-related short-chain chlorinated paraffins, which have persistent, bioaccumulative and toxic (PBT) characteristics. The companies were also required to submit new chemical pre-manufacture notices under TSCA section 5 for all chlorinated paraffins domestically produced or imported. As with all PMN submissions, the EPA is following the processes, procedures and statutory provisions of TSCA section 5, which includes our policy on substances that are potential Persistent, Bioaccumulative, and Toxic (PBT) chemicals.

The agency's assessment of the submitted pre-manufacture notices indicates concerns about the potential PBT properties of MCCP and LCCP chemicals and the dispersive nature of many of their uses. To help ensure a complete understanding of the possible risks, the EPA has over the past months requested from industry that critical uses of specific chlorinated paraffins be identified. After consultation with the EPA, the Department of Defense (DOD) also requested information from its suppliers on critical uses, which includes the use and information on the lack of a substitute chemical.

In addition, on December 23, 2015, the EPA made public the preliminary risk assessments currently under development for the PMN reviews. To help inform the assessments and reduce uncertainties, we also requested the submittal of new available data on chlorinated paraffins in different industries and for different uses, including whether there are uses for the PMN chlorinated paraffin substances that do not present the potential for direct or indirect release to water and data on treatment methods, environmental releases, and other waste management practices, particularly for non-water based applications. The Federal Register Notice can be found at <http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPPT-2015-0789-0001>. This information is due to the agency by February 22, 2016, and we anticipate making a final decision on the PMNs after consideration of new data.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at [kaiser.sven-erik@epa.gov](mailto:kaiser.sven-erik@epa.gov) or 202-566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', written over the printed name and title.

James J. Jones  
Assistant Administrator

AL-11-000-2674

ADAM KINZINGER  
11TH DISTRICT, ILLINOIS1218 LONGWORTH HOUSE OFFICE BUILDING  
(202) 225-3635**Congress of the United States**  
**House of Representatives**

Washington, DC 20515-1311

February 15, 2011

The Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code: 1101A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

As newly elected Representatives, we look forward to working with you in the 112th Congress. We are writing you to echo concerns recently expressed by a bipartisan group of 114 Representatives during the 111th Congress on EPA's proposed Maximum Achievable Control Technology rules for boilers (Boiler MACT). Various analyses suggest the proposed Boiler MACT rules could cost tens of billions of dollars and hundreds of thousands of jobs at a time when our nation can least afford it.

We are disappointed that the court granted EPA only one additional month to complete the Boiler MACT and related rulemakings when they asked for fifteen months to develop a practical final rule. We appreciate that you plan to allow for another round of public review and comment through reconsideration of the rules and that the standards will be significantly different than those proposed in June 2010. Despite the limited time, we urge you to issue a final rule on February 21<sup>st</sup> that will include changes to preserve jobs and protect the environment.

Specifically, the final standards should be achievable by well performing boilers under the range of normal operating conditions. We also urge EPA to use the discretion Congress provided to develop cost-effective targeted rules that protect public health. Finally, the biomass standards should not discourage the use of this important source of renewable energy.

We cannot have economic recovery if manufacturers, municipalities, small businesses, universities, hospitals and others are smothered in billions of dollars of regulations that may not even be achievable. We are committed to fighting for the jobs of hard working Americans across the country who recently elected us to represent them in Washington, DC. We urge EPA to issue final regulations consistent with President Obama's new Executive order on regulation that protects public health and promotes economic recovery.

Thank you for your attention to this important matter.

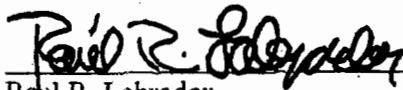
Sincerely,



Adam Kinzinger  
Member of Congress



Todd Rokita  
Member of Congress



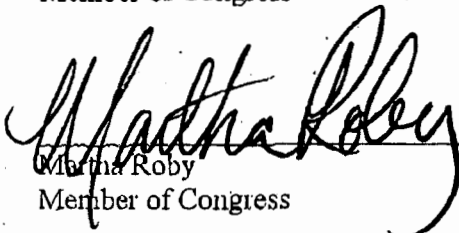
Raul R. Labrador  
Member of Congress



Tim Scott  
Member of Congress



Bill Flores  
Member of Congress



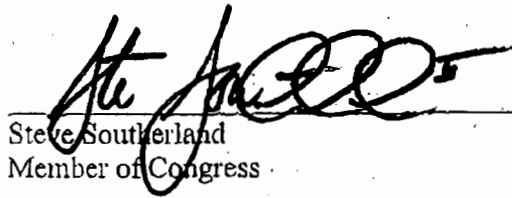
Martha Roby  
Member of Congress



Sean P. Duffy  
Member of Congress



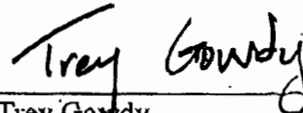
Robert Hurt  
Member of Congress



Steve Southerland  
Member of Congress



Bob Gibbs  
Member of Congress



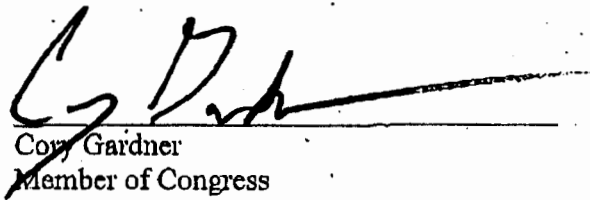
Trey Gowdy  
Member of Congress



Billy Long  
Member of Congress



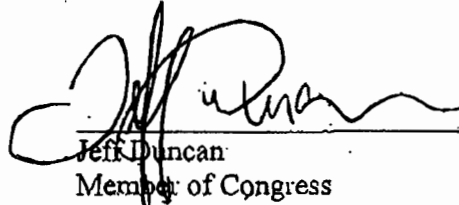
Terri A. Sewell  
Member of Congress



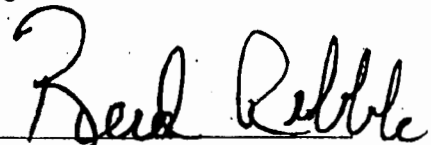
Cory Gardner  
Member of Congress



Mick Mulvaney  
Member of Congress



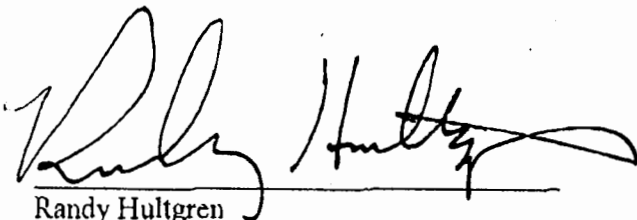
Jeff Duncan  
Member of Congress




Reid Ribble  
Member of Congress



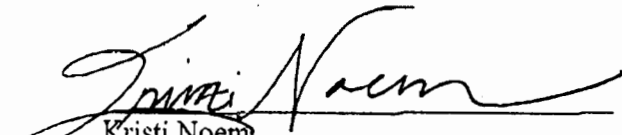
Alani Nunnelee  
Member of Congress



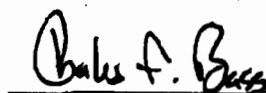
Randy Hultgren  
Member of Congress

  
M.C.

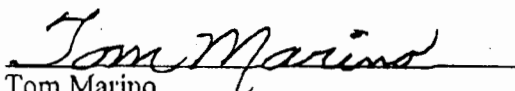
David McKinley  
Member of Congress

  
Member of Congress

Kristi Noem  
Member of Congress

  
Member of Congress

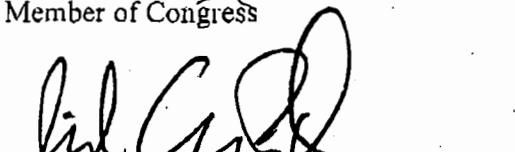
Charles Bass  
Member of Congress

  
Member of Congress


Tom Marino  
Member of Congress

  
Member of Congress

Sandy Adams  
Member of Congress

  
Member of Congress

Rick Crawford  
Member of Congress

  
Member of Congress

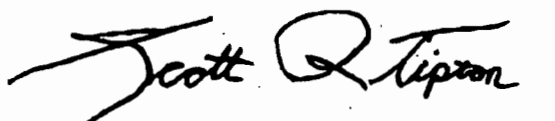
Chris Gibson  
Member of Congress

  
Member of Congress

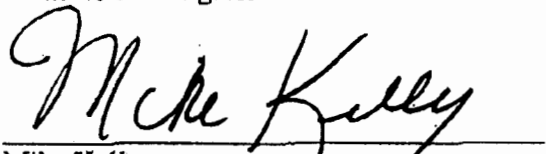
Renee Ellmers  
Member of Congress

  
Member of Congress

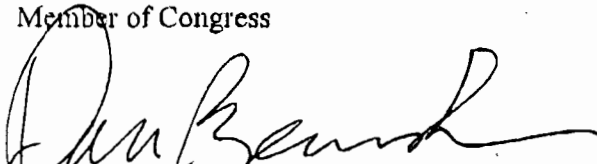
Scott Rigell  
Member of Congress

  
Member of Congress


Scott Tipton  
Member of Congress

  
Member of Congress

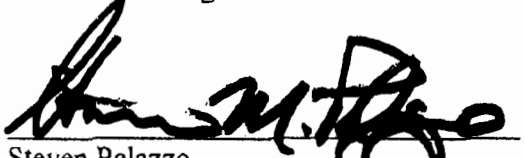
Mike Kelly  
Member of Congress

  
Member of Congress

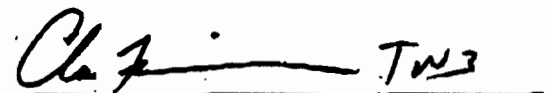
Dan Benishek  
Member of Congress

  
Member of Congress

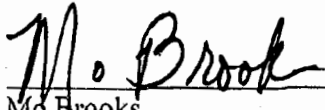
Lou Barletta  
Member of Congress

  
Member of Congress

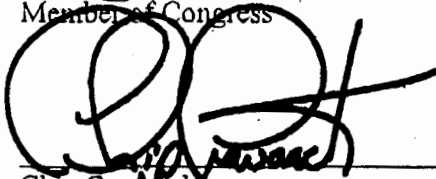
Steven Palazzo  
Member of Congress

  
Member of Congress

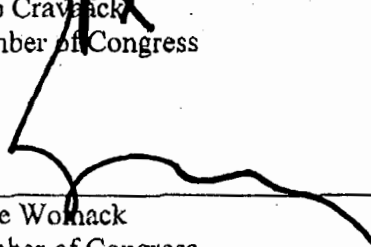
Chuck Fleischmann  
Member of Congress




Mo Brooks  
Member of Congress




Chip Cravaack  
Member of Congress



Steve Womack  
Member of Congress



Robert Dold  
Member of Congress



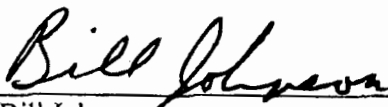
Dennis Ross  
Member of Congress



Vicky Hartzler  
Member of Congress



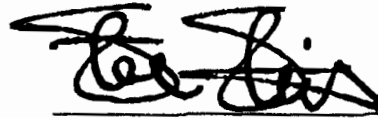
Blake Farenthold  
Member of Congress



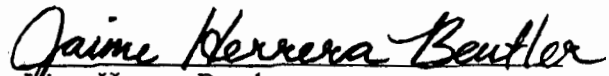
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Member of Congress



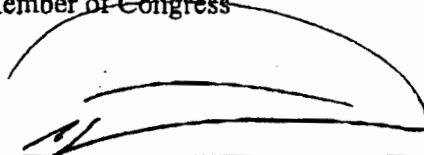
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Member of Congress



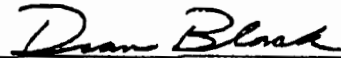
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Member of Congress



Jaime Herrera Beutler  
Member of Congress



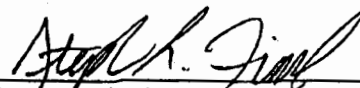
Scott DesJarlais  
Member of Congress



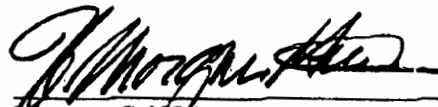
Diane Black  
Member of Congress



Daniel Webster  
Member of Congress




Stephen Fincher  
Member of Congress

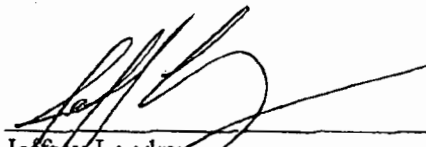


Morgan Griffith  
Member of Congress






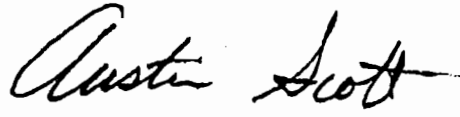
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Member of Congress



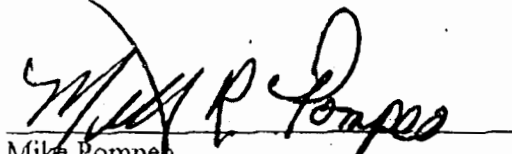
Jeffrey Landry  
Member of Congress



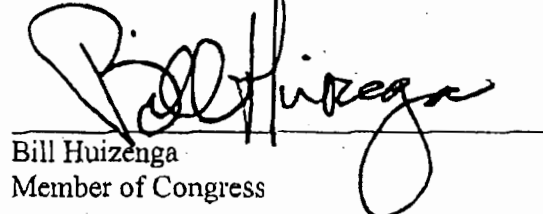
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Member of Congress



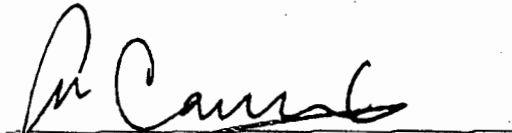
Austin Scott  
Member of Congress



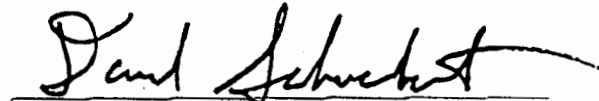
Mike Pompeo  
Member of Congress




Bill Huizenga  
Member of Congress



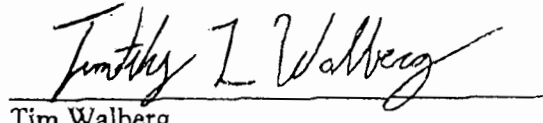
Francisco Canseco  
Member of Congress




David Schweikert  
Member of Congress



Joe Walsh  
Member of Congress



Tim Walberg  
Member of Congress



Steve Chabot  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 23 2011

THE ADMINISTRATOR

The Honorable Robert J. Dold  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Dold:

The 1990 amendments to the Clean Air Act directed the Environmental Protection Agency to issue emissions standards for hazardous air pollution from large stationary sources, including industrial, commercial, and institutional boilers and process heaters ("boiler air toxics standards"). I am writing to update you on the Agency's long-overdue work to carry out that Congressional mandate.

The EPA finally proposed boiler air toxics standards for public comment last June. After another eight months of work, and in order to comply with an order issued by the U.S. District Court for the District of Columbia, the Agency issued the boiler air toxics standards two days ago. As explained below, however, existing sources will not need to make any changes immediately.

A large number of businesses and other institutions submitted comments on the proposed standards that the EPA published last June. Those comments contained voluminous data that the Agency did not have at the time it crafted the proposal. The new data has proved highly relevant to the EPA's essential tasks of (1) organizing the multitude of boilers and process heaters into appropriate subcategories and (2) calibrating the standard for each subcategory to the emissions control that well-performing existing facilities within it are achieving already.

Consequently, the standards that the EPA just issued reflect significant changes that the Agency made to the original proposal. For example, the EPA –

- has established a solid-fuel boiler subcategory in recognition of the lack of clear technical distinction between boilers that burn coal and boilers that burn biomass;
- has provided additional flexibility for existing biomass boilers by increasing the carbon monoxide limit and establishing work practice standards for startups and shutdowns;

- has ensured that the standards for all of the various air toxics can, in practice, be met by an individual unit, even though the Agency followed its historical approach of calculating minimum standards on a pollutant-by-pollutant basis; and
- has reduced compliance costs by requiring tune-ups, in lieu of setting numeric emission limits, for boilers and process heaters that use natural gas (or other gaseous fuels – from refineries, landfills, or other sources – that meet mercury and hydrogen sulfide specifications similar to those of natural gas).

Changes such as those listed above render the issued standards about half as costly to meet as the proposed ones would have been. The issued standards nonetheless will protect enormous numbers of American adults and children from harm by reducing their exposure to air toxics such as mercury and lead, which have adverse effects on IQ, learning, and memory.

The health benefits are particularly important for people living in communities close to the affected facilities. The analyses accompanying the standards find that for every dollar spent to comply with the standards, the public will receive at least fifteen to thirty-six dollars in health protection and other benefits. The standards will also reduce concentrations of ozone and fine particles, thereby avoiding, in the year 2014 alone –

- 2,500 to 6,500 premature deaths;
- 1,600 cases of chronic bronchitis;
- 4,000 nonfatal heart attacks;
- 4,300 hospital and emergency room visits;
- 3,700 cases of acute bronchitis;
- 78,000 cases of respiratory symptoms;
- 310,000 days when people miss work or school;
- 41,000 cases of aggravated asthma; and
- 1,900,000 days when people must restrict their activities.

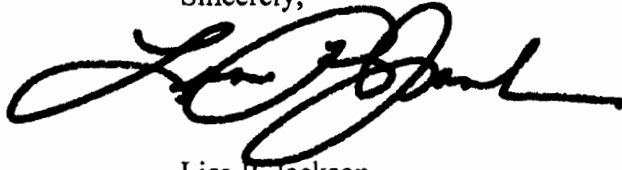
Finally, it is important to note that, even when the EPA does not count the jobs created in manufacturing and installing pollution control equipment, the Agency estimates that the new standards will, on balance, create 2,200 new jobs.

I am proud of the work that the EPA has done to craft protective, sensible standards for controlling hazardous air pollution from boilers and process heaters. The standards reflect what industry has told the Agency about the practical reality of operating these units. I am also, however, sensitive to the fact that the standards issued earlier this week are substantially different from the ones on which the public had an opportunity to comment last year. To the extent that the standards contain provisions that stakeholders could not have anticipated based on the proposal, the public deserves an opportunity to comment on those changed provisions. The additional comments will give the EPA a means of ensuring that it has not, in changing the proposed standards substantially, effectuated any results that the Agency did not anticipate or intend.

Therefore, the EPA will solicit and accept comments from members of the public who would like the Agency to reconsider aspects of the standards that have changed significantly and unexpectedly from the proposal. Existing sources are not required to comply with the standards until three years after they become effective, and parties may request that the EPA delay the effective date as part of the reconsideration process.

I hope that this update has been helpful. If you have any questions, please do not hesitate to contact me or to have your staff contact David McIntosh, the Associate Administrator for Congressional and Intergovernmental Relations, at (202) 564-0539.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa P. Jackson', with a large, stylized loop at the end.

Lisa P. Jackson



AL-11-002-0478

# Congress of the United States

House of Representatives

Washington, DC 20515

November 18, 2011

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building, Mail Code 1001A  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

In the January 19, 2011 Federal Notice announcement, your agency issued a Proposed Order to withdraw the tolerances for residues of sulfuryl fluoride (SF) on food and cancel associated uses by 2014. This Proposed Order concerns the agricultural industry, as it has spent considerable resources and time over the past sixteen years transitioning to sulfuryl fluoride.

Sulfuryl fluoride has been adopted by the agricultural industry as a means to control pests in a variety of food commodities including dried fruits, tree nuts, cocoa, coffee, seeds, and grain milling, food processing, handling and storage facilities. Its use has been strongly encouraged by the EPA as an alternative to methyl bromide and many of these sectors are now 100 percent dependent on its use.

We are concerned about the impact this Proposed Order will have on the U.S. food and agriculture industries. As members of the agricultural community, we take great interest in policies that affect America's agriculture economy and producers. We would ask that you provide answers to the following questions:

As a function of the aggregate risk associated with fluoride, what portion of that risk is attributed to SF?

What percentage of aggregate fluoride exposure risk comes from all food-related uses of SF? Conversely, what percentage of fluoride exposure comes from individual additional sources?

Considering the aggregate risk of fluoride, what public health benefits will be observed by withdrawing the tolerances for residues of SF on food and canceling its associated uses?

Please outline all agronomic benefits associated with SF, including its use as an alternative fumigant to methyl bromide.

How does the withdrawal of food tolerances for SF impact our obligations under the Montreal Protocol? (Please provide a complete list of all alternatives to methyl bromide and SF including their associated costs and benefits.)

In a January 10, 2011 EPA Public Announcement, the EPA noted *"Use of sulfuryl fluoride is responsible for a tiny fraction of aggregate fluoride exposure... Elimination of sulfuryl fluoride does not solve, or even significantly decrease, the fluoride aggregate exposure problems identified earlier."* Has the EPA since found credible scientific data that contradicts this previous statement?

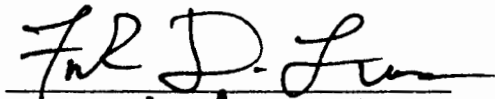
Please provide a complete list of administrative options available to you short of a phase-out of this food safety tool.

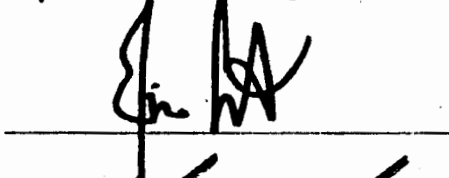
Because other statutory provisions are available to address public health exposures, why has EPA not excluded drinking water, beverages and dental treatment exposures from the aggregate exposure assessment for SF?

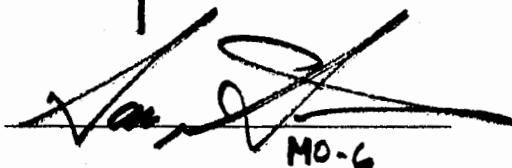
Before this proposal moves forward, it is important that we consider and understand the impact it will have on the agricultural industry. Thank you for your attention to this matter and we look forward to your response.

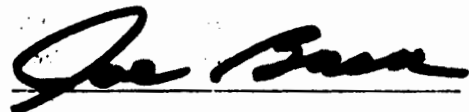
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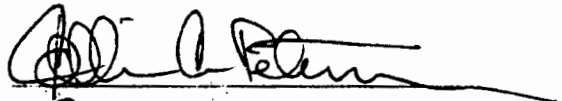
  
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Jean Schmidt

  
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Fred D. Lewis

  
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Joe B.

  
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Rick Creamer

  
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C. W. Boring

Alan Nunnally

✓ Paul S. F.

Charles D. Dunt

Bob Hill

Joseph R. Pitts

John Emerson

Ken Burton

T. H. H.

Blake Farnhold

Hugh Farn

Bill Cassidy

Tom Griffith

Shirley Penn

Kurt Schneider

THOMAS

Quail E. Longen

Mid Run

Danny K. Davis

Joe C. G.

Robert J. Oshel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB - 6 2012

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Robert Dold  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Dold:

Thank you for your letter of November 18, 2011, to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding EPA's proposal to withdraw food tolerances of sulfuryl fluoride and its potential impact on the agricultural community. I am responding on behalf of the agency since my office is responsible for regulating pesticides.

In March 2006, the National Research Council (NRC) of the National Academies of Science (NAS) released a review of fluoride in drinking water that recommended that EPA update its fluoride risk assessment to include new data on health risks and better estimates of total exposure. To address these recommendations, EPA's Office of Water (OW) completed new assessments that consider health effects data on skeletal and dental fluorosis and updated exposure estimates to reflect current conditions. EPA will consider these scientific assessments along with other relevant information in making a determination of whether to lower the maximum amount of fluoride allowed in drinking water, which is set to prevent adverse health effects.

These assessments also provide the basis for EPA's proposal to withdraw tolerances (legal residue limits on food) for the pesticide sulfuryl fluoride, a fumigant that breaks down into fluoride and is commonly used in food storage and processing facilities. EPA's Office of Pesticide Programs (OPP) built upon the work of OW by updating its human health risk assessment for sulfuryl fluoride using the new OW dose-response and relative source contribution documents and the more sensitive health endpoint of severe dental fluorosis, as recommended by the NRC. The work to reassess the risks from sulfuryl fluoride is part of the agency's response to objections filed in 2004 by the Fluoride Action Network (FAN), Environmental Working Group, and Beyond Pesticides in exercise of their statutory rights to seek administrative review of the original establishment of the sulfuryl fluoride tolerances.

As noted in your letter, EPA recognizes that sulfuryl fluoride is an important replacement for several post-harvest uses of methyl bromide and that many industries that previously relied on methyl bromide now depend on sulfuryl fluoride. For these reasons, EPA is proposing to allow several years for users to develop new treatment options. Under EPA's current proposal, tolerances for uses currently lacking alternatives would remain in place for three years following the issuance of the final decision. In the interim, EPA will work with users of sulfuryl fluoride to identify potential alternatives and work collaboratively with other government agencies to address fluoride comprehensively.

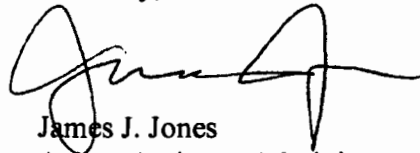


At each stage of its fluoride review process, EPA has worked closely with the other federal agencies that have an interest in fluoride. EPA plans to continue this approach as it moves forward. In addition, the comment period on EPA's proposed decision on sulfuryl fluoride closed in July 2011, and EPA is currently reviewing and considering all of the comments received. Many provide new details about the feasibility, expected costs, and anticipated timelines for transitioning to treatment methods other than sulfuryl fluoride and methyl bromide. The agency will fully consider this information before reaching a final decision on the sulfuryl fluoride tolerances. As always, EPA remains committed to using sound science to protect public health and the environment.

Your letter asks EPA to answer eight specific questions about fluoride and sulfuryl fluoride. Detailed answers to those questions are provided in the enclosure to this letter.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'James J. Jones', with a stylized, flowing script.

James J. Jones  
Acting Assistant Administrator

Enclosure

**Question 1: As a function of the aggregate risk associated with fluoride, what portion of that risk is attributed to SF?**

EPA estimates that fluoride exposure from sulfuryl fluoride accounts for between 2-5% of total aggregate fluoride exposure. Estimates of aggregate fluoride exposure depend on a number of factors, including the frequency with which people brush their teeth, how much drinking water they consume, the concentration of fluoride in their drinking water, and the age group of interest. These factors result in a range of aggregate exposure estimates and, therefore, a range in the relative contribution attributable to sulfuryl fluoride.

**Question 2: What percentage of aggregate fluoride exposure risk comes from all food-related uses of SF? Conversely, what percentage of fluoride exposure comes from individual additional sources?**

In assessing exposure to fluoride from the use of sulfuryl fluoride, OPP separately examined direct food fumigation and structural fumigation. While the structural fumigation does not target food commodities for treatment, residual amounts of food left in the structure may be inadvertently treated with the fumigant. As such, both direct food fumigation and structural fumigation are considered "food uses" and there is therefore no significant difference between Questions 1 and 2.

**Question 3: Considering the aggregate risk of fluoride, what public health benefits will be observed by withdrawing the tolerances for residues of SF on food and canceling its associated uses?**

Withdrawal of the sulfuryl fluoride tolerances will not result in aggregate fluoride exposure falling below the level of concern for all individuals that are currently over-exposed. In communities where EPA has estimated that average chronic fluoride exposures exceed the safe dose for fluoride, there is a distribution of different exposure values for different individuals that depends on a variety of factors including amount of fluoride dental products used and drinking water consumption. For individuals whose exposure only marginally exceeds the safe dose, the contribution of fluoride from sulfuryl fluoride residues may be the difference between safe and unsafe exposure.

**Question 4: Please outline all agricultural benefits associated with SF, including its use as an alternative fumigant to methyl bromide.**

Sulfuryl fluoride is the primary alternative to post-harvest uses of methyl bromide. It is used to control stored product pests in cereal grains (e.g., wheat, corn, and rice, and the mills that process these grains), tree nuts (e.g., walnuts, almonds), dried fruits (e.g., raisins, dried plums); dried legumes (e.g., garbanzo beans, black-eyed peas), cocoa beans, and coffee beans. These pests infest not only the foodstuff but also food handling and food processing structures, so sulfuryl fluoride is also used for fumigation of food handling and processing facilities and food warehouses.

Sulfuryl fluoride is applied by Precision Fumigation™, a program that determines the minimum gas necessary by taking into account the pests, temperature, half-life, volume, and desired level of control. Like methyl bromide, sulfuryl fluoride can accommodate the rapid fumigation time

needed by the tree nut industry during peak harvest. Commodities often become infested with insects during storage. Similar to methyl bromide, sulfuryl fluoride kills the insects quickly and without corrosion to electronic or electrical equipment.

The one fumigant other than sulfuryl fluoride currently available for direct commodity fumigations is phosphine. It requires a longer exposure time than sulfuryl fluoride and is corrosive to copper and silver metals and their alloys. There is no other chemical available to fumigate structures such as mills, food processing facilities, or food warehouses. Without sulfuryl fluoride or methyl bromide, mills and food processing facilities have only heat as a potential option to control their pests.

**Question 5: How does the withdrawal of food tolerances for SF impact our obligations under the Montreal Protocol? (Please provide a complete list of all alternatives to methyl bromide and SF including their associated costs and benefits.)**

The withdrawal of food tolerances for SF would have no impact on U.S. obligations under the Montreal Protocol. Methyl bromide is an ozone-depleting pesticide whose production and import was phased out in developed countries under the Montreal Protocol and the Clean Air Act in 2005, apart from limited exemptions. The critical use exemption allows for the continued production and import of methyl bromide when the Parties to the Protocol agree there are no technically and economically feasible alternatives available and where the lack of methyl bromide would result in a significant market disruption. EPA fully supports our nation's commitment to phase out methyl bromide and comply with its obligations under the Montreal Protocol.

The costs and benefits of methyl bromide and sulfuryl fluoride for post-harvest fumigation (structures and commodities) are comparable; application costs and efficacy are similar though there is evidence to suggest that sulfuryl fluoride is less effective on insect eggs and methyl bromide gas is now nearly twice as expensive as sulfuryl fluoride per pound.

If neither methyl bromide nor sulfuryl fluoride were available for fumigating mills and food processing facilities, the only other technically feasible option would be heat treatment to disinfest these structures. If facilities choose to have a contractor conduct heat treatments, the cost of disinfesting structures would be significantly higher than fumigation with either fumigant. If the facilities chose to purchase their own heaters and equipment and train their own personnel to conduct the treatments, the long-term cost would be much lower and comparable to methyl bromide or sulfuryl fluoride fumigation but successful transition could take years. It should also be noted that some older mills might not be able to transition to heat treatment because the heating and cooling process could damage the buildings. Without methyl bromide or sulfuryl fluoride, these structures would be left with no disinfestation options.

If neither methyl bromide nor sulfuryl fluoride was available for fumigating commodities (e.g., tree nuts, dried fruit, cocoa beans), the only technically feasible alternative for these uses would be phosphine. Phosphine is less expensive per fumigation but takes nearly five times as long to be effective. For commodities that require fast fumigation times at harvest (e.g., walnuts) or because of their location (e.g., cocoa beans in a warehouse) this would necessitate the purchase of additional fumigation chambers or additional warehouse space, which would be a costly initial

investment and may not be possible for all operations since additional space to store the chambers would be necessary. In addition, some commodities (e.g., dates) cannot accommodate the additional time required by phosphine due to freshness issues.

**Question 6:** In a January 10, 2011 EPA Public Announcement, the EPA noted “Use of sulfuryl fluoride is responsible for a tiny fraction of aggregate fluoride exposure...Elimination of sulfuryl fluoride does not solve, or even significantly decrease, the fluoride aggregate exposure problems identified earlier.” Has the EPA since found credible scientific data that contradicts this previous statement?

To date, EPA has not found data that contradicts the referenced statement. But EPA is currently reviewing and analyzing public comments that were received on the proposed order to withdraw sulfuryl fluoride tolerances, which contained the cited statement.

**Question 7:** Please provide a complete list of administrative options available to you short of a phase-out of this food safety tool.

Section 408(b)(1)(A) of the FFDCA directs EPA to “modify or revoke a tolerance if the Administrator determines it is not safe.” In the proposed order on the sulfuryl fluoride tolerance objections, EPA concluded that these tolerances were not safe. In comments on that proposal, one commenter provided a number of legal arguments, designated as “administrative options,” in support of the conclusion that the sulfuryl tolerances do meet the safety standard. Included as an administrative option was the assertion that it is appropriate to interpret section 408’s safety standard as having an exception for pesticides posing a de minimis risk. Another administrative option cited by that commenter was that EPA could create an extraordinary circumstances policy that would permit retention of the sulfuryl fluoride tolerances. EPA is closely examining these arguments in reviewing the comments submitted on the proposed order.

**Question 8:** Because other statutory provisions are available to address public health exposures, why has EPA not excluded drinking water, beverages and dental treatment exposures from the aggregate exposure assessment for SF?

FFDCA section 408 requires EPA to aggregate and cumulate exposures to pesticides and other related substances. EPA is aware of no exception to these aggregation and cumulation requirements in circumstances where the other related substance is regulated directly under another federal statute. As noted above, however, in our answer to question 7, one commenter has argued that there are some circumstances where EPA is not required to aggregate pesticides and non-pesticidal substances. EPA is closely reviewing these arguments in reviewing the comments submitted on the proposed order.

Congress of the United States  
Washington, DC 20515

September 28, 2016

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy,

As Members of Congress committed to the restoration the Chesapeake Bay, as well as the region's rivers and streams, we are very concerned about a potential federal funding shortfall of \$150,000 for the annual submerged aquatic vegetation (SAV) survey. This aerial survey of the entire Bay and its tidal tributaries has been conducted every year since the 1980's and provides a critical snapshot and benchmark for the health of the Bay. There are concerns that the Chesapeake Bay Program will cut this survey from annually to biennially, which we believe would be a mistake.

The restoration of SAV, or sea grasses, is a critical indicator of the success of the Bay restoration efforts. Sea grasses are essential to the health of the Bay. They filter harmful pollutants and provide critical habitat and food for fish, blue crabs, waterfowl and other species. One ambitious goal is to restore water clarity enough to support 185,000 acres of SAV, and this survey is the only mechanism to measure that. Furthermore, the Chesapeake Bay will not be removed from the Clean Water Act's List of Impaired Waters until this goal is met for three consecutive years.

The cost for the SAV survey in 2016 is \$687,000. The U.S. Environmental Protection Agency (EPA) has committed \$360,000 toward its completion. Virginia state agencies will provide \$132,000 and \$45,000 will be provided by Maryland. This totals \$537,000, leaving a shortfall of \$150,000 in FY16 funds to complete the survey and analyze the data.

The survey is used for permitting and regulatory work, and to gauge Bay health and impacts on fish and wildlife. The survey receives direct funding from only one federal agency, the EPA. EPA has filled the gap as other agencies have reduced or eliminated their funding. The following federal agencies have eliminated their contributions while still utilizing data from the survey to fulfill their regulatory role in the Bay:

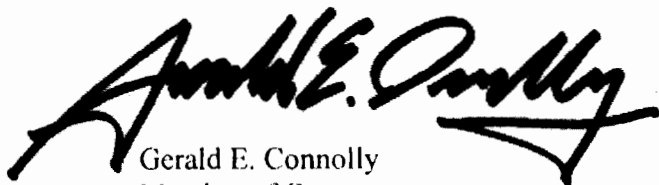
- U.S. Army Corps of Engineers – Eliminated all funding support- last funding amount was \$85,000 in 2012.

- U.S. Fish & Wildlife Service – Eliminated all funding support– last funding amount was \$35,000 in 1998.
- National Oceanic and Atmospheric Administration – Eliminated all funding support– last funding amount was \$20,000 in 2014.

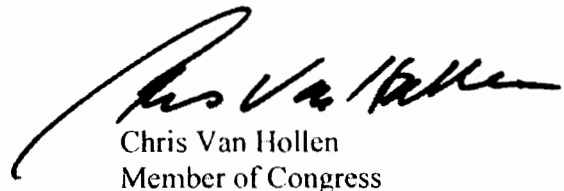
We appreciate that the EPA has partially filled the funding gap left by others in the past. We hope those federal agencies that benefit from this study will fulfill their responsibilities toward our shared Chesapeake Bay restoration efforts and restore funding to this critical program in FY 16 and in future years.

If this survey is allowed to lapse, or become reduced in size, federal and state regulators will be without critical data to determine permit issuance, regulatory decisions, and management actions. A key measurement of whether the Bay is getting better, or worse, will be lost, and actions necessary to stem any decline will be delayed without this key information. We urge you to ensure that this does not happen and that your agency will, at a minimum, restore funding to the levels that you last contributed to this program. Thank you and we look forward to your response.

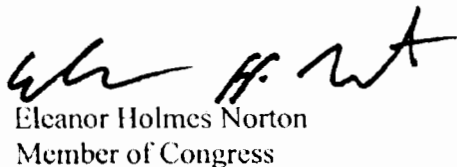
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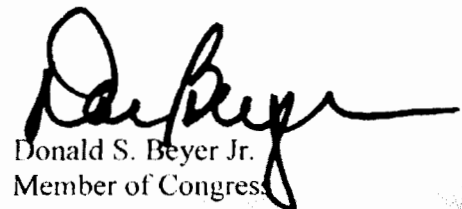
Gerald E. Connolly  
Member of Congress



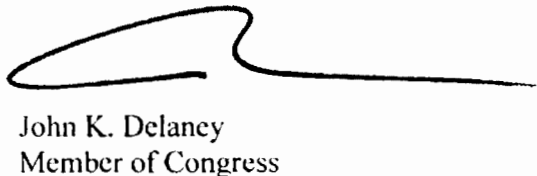
Chris Van Hollen  
Member of Congress



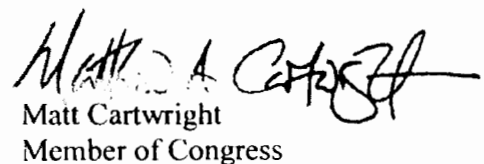
Eleanor Holmes Norton  
Member of Congress




Donald S. Beyer Jr.  
Member of Congress




John K. Delaney  
Member of Congress



Matt Cartwright  
Member of Congress

  
Elijah E. Cummings  
Member of Congress

  
Robert C. "Bobby" Scott  
Member of Congress

cc: The Honorable Gina McCarthy, Administrator, Environmental Protection Agency  
The Honorable Daniel M. Ashe, Director, U.S. Fish and Wildlife Service  
The Honorable Kathryn D. Sullivan, Under Secretary of Commerce for Oceans and  
Atmosphere and NOAA Administrator



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III**

**1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

OCT 21 2016

The Honorable John K. Delaney  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Delaney:

Thank you for your letter concerning funding for the annual submerged aquatic vegetation (SAV) survey for the Chesapeake Bay. We agree SAV abundance is a critical indicator of the success of Bay restoration efforts and thank you for acknowledging the ongoing commitment of the U.S. Environmental Protection Agency (EPA) toward funding this critical survey.

The Chesapeake Bay Program partnership's SAV Workgroup will be sponsoring a workshop in March 2017 focused on the SAV Aerial Survey and the corresponding SAV Ground Survey. There are four objectives of this Partnership workshop:

- Compile a comprehensive listing of the full array of restoration, protection, permitting, compliance, enforcement, public communication, and state water quality standards attainment assessment decision-making needs;
- Determine exactly what SAV aerial and ground survey data (e.g., areas of SAV beds, SAV species identifications) and products (e.g., maps, photographic imagery) are required to support the compiled list of needed management decisions;
- Develop a series of alternative SAV aerial survey and ground survey designs which can produce data and products required by local, state and federal decision makers; and
- Reach agreement on a long-term funding strategy to sustain the SAV aerial survey and ground survey for decades, clearly defining funding roles for all agencies and organizations which directly and indirectly benefit from the two surveys.

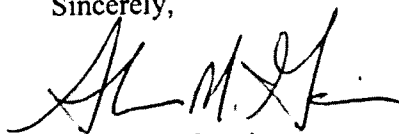
The outcomes and recommendations from the workshop will be presented for final decisions to the partnership's Management Board, which includes representatives from all the signatory jurisdictions along with federal agency partners. We will keep you informed as we go through this process.





Thank you for your ongoing support of the Chesapeake Bay restoration efforts. If you have any questions, please do not hesitate to contact me or have your staff contact Mrs. Linda Miller, EPA's Maryland Liaison, at 215-814-2068.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn M. Garvin". The signature is fluid and cursive, with a large initial "S" and "G".

Shawn M. Garvin  
Regional Administrator



OAR-14-000-5892

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 21 2014

OFFICE OF  
AIR AND RADIATION

The Honorable John Delaney  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Delaney:

On behalf of the U.S. Environmental Protection Agency, it is my pleasure to inform you that Montgomery County Department of Environmental Protection, Northeast Maryland Waste Disposal Authority, and Covanta Montgomery, Inc., located in Dickerson, Maryland, have been selected for a Clean Air Excellence Award for their project Montgomery County Resource Recovery Facility. We received almost 70 applications, and this project was chosen by the EPA's Office of Air and Radiation for its impact, innovation and replicability.

We would like to invite you to attend the 2014 Clean Air Excellence Awards Ceremony, which will be held on the evening of Wednesday, April 2, 2014, from 5:30 pm to 7:30 pm at the Crowne Plaza Hotel in Crystal City, Virginia. Along with others, I will be presenting the awards.

The Clean Air Excellence Awards Program recognizes and honors outstanding and innovative efforts to achieve cleaner air. The program was recommended to the EPA by the Clean Air Act Advisory Committee, which advises the EPA on policy issues related to the Clean Air Act.

We hope you will be able to join us in congratulating the winners from your state for their innovative projects that are helping us to achieve cleaner air. If you have any questions, please contact me or your staff may contact Jenny Craig of my staff at (202) 564-1674 or [craig.jeneva@epa.gov](mailto:craig.jeneva@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe".

Janet G. McCabe  
Acting Assistant Administrator

AL-14-001-1652

**Congress of the United States**  
**Washington, DC 20515**

June 30, 2014

The Honorable Gina McCarthy, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave  
Washington, DC 20460

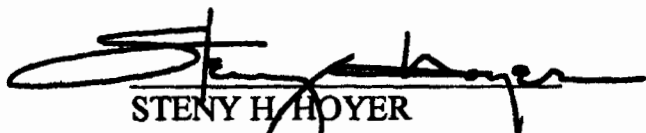
Dear Administrator McCarthy:

We write to encourage you to seriously consider approving ethanol produced from winter barley as an advanced biofuel. Barley is grown in the Chesapeake Bay region as a winter cover crop. It is planted in the fall after corn or soybeans to use any remaining nutrients from the previous crop, helping to prevent nutrient runoff into the Chesapeake Bay. With an ethanol plant in Hopewell, Virginia, expected to begin operation later this year, a determination that winter barley-to-ethanol is an advanced biofuel would help develop a new domestic fuel source, improve water quality, and generate economic benefits for Maryland's agricultural economy by creating a market for this highly effective winter cover crop.

For nearly two decades, Maryland grain farmers have provided financial support to small grains experts at Virginia Tech to develop barley cultivars with improved biofuel related traits. We understand that spring barley may not meet the standards for advanced biofuels, so we encourage you to consider winter barley separately. Approval of winter barley as an advanced biofuel would help diversify the operation of the Hopewell plant and contribute to its success in producing alternative fuels.

With environmental advantages as a biofuel feedstock and side benefits for Chesapeake Bay revitalization efforts, we believe EPA should have a strong interest in finalizing the status review of winter barley for ethanol.

Sincerely,

  
STENY H. HOYER  
Member of Congress

  
BARBARA MIKULSKI  
United States Senator

The Honorable Gina McCarthy

June 30, 2014

Page 2



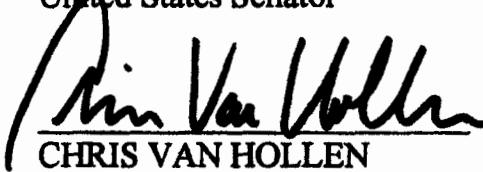
BENJAMIN L. CARDIN

United States Senator



ELIJAH CUMMINGS

Member of Congress



CHRIS VAN HOLLEN

Member of Congress



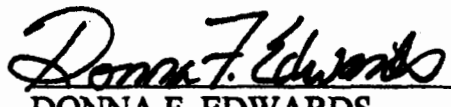
C.A. DUTCH RUPPERSBERGER

Member of Congress



JOHN SARBANES

Member of Congress



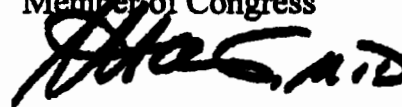
DONNA F. EDWARDS

Member of Congress



JOHN DELANEY

Member of Congress



ANDY HARRIS

Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 18 2014

OFFICE OF  
AIR AND RADIATION

The Honorable John Delaney  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Delaney:

Thank you for your June 30, 2014, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the EPA's evaluation of winter barley as an advanced biofuel under the Renewable Fuel Standard (RFS) program. The Administrator has asked me to respond on her behalf.

Our preliminary evaluation of renewable fuel derived from barley was published in the *Federal Register* on July 23, 2013, as part of a notice of data availability (NODA) which initiated a thirty day period of public notice and comment. We received a number of significant comments that represented a range of differing opinions from industry during this period including comments from Vireol Bio Energy Ltd, the company that owns the Hopewell, VA ethanol plant. We also received comments regarding barley's potential to improve water quality.

We are now in the process of carefully considering the comments received on the barley NODA. Since the close of notice and comment, we have had multiple productive conversations with the owners of the Hopewell plant regarding their unique circumstances. We remain fully engaged with these stakeholders and will continue to consult with them as we move forward towards a final determination. As we have done throughout the petition evaluation process, we will continue to consult with a variety of agricultural experts in the areas of winter barley cultivation, marketing, and renewable fuel production.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at [haman.patricia@epa.gov](mailto:haman.patricia@epa.gov) or (202) 564-2806.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", is located below the "Sincerely," text.

Janet G. McCabe  
Acting Assistant Administrator

AL 13-000-2543

Congress of the United States  
House of Representatives  
Washington, DC 20515-2006

February 19, 2012

Mr. Craig E. Hooks  
Assistant Administrator  
U.S. Environmental Protection Agency  
Office of Administration and Resources Management  
Washington, DC 20460

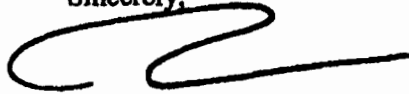
Dear Mr. Hooks:

I am writing you on behalf of my constituent, Mr. <sup>St. L</sup> , who contacted my office to enlist assistance in finalizing his case for retroactive military leave pay. Mr. <sup>St. L</sup> previously worked through Congressman Van Hollen's office regarding this issue.

Please review the enclosed documentation and reply to my Field Representative, Diana Modelski, 301-797-6043, [diana.modelski@mail.house.gov](mailto:diana.modelski@mail.house.gov).

Thank you for your cooperation in this regard and for your efforts on behalf of Mr. Gasque.

Sincerely,



JOHN K. DELANEY  
Member of Congress

JKD:dcn  
Enclosure

# CONGRESSMAN JOHN K. DELANEY

## PRIVACY RELEASE

The Privacy Act of 1974, Title 5, U.S. Code Section 552a, provides that as of September 27, 1975, disclosure of information of a personal or confidential nature of an individual will no longer be released to third parties without written consent of the individual concerned. Therefore, I hereby grant Representative John K. Delaney my written permission to intercede on my behalf. I also duly authorize that any information which is contained in my records and necessary to provide a substantive response may be disclosed to Representative Delaney.

Name: Mr./Ms./Mrs./Dr. EX-4

Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone Numbers: Home: \_\_\_\_\_

Work: \_\_\_\_\_

Mobile: EX-4

Fax: \_\_\_\_\_

**PLEASE STATE THE NATURE OF YOUR REQUEST, PROBLEM OR COMPLAINT ON WHICH YOU WOULD LIKE ASSISTANCE. PLEASE BE SPECIFIC AND, IF NECESSARY, ATTACH A SHORT LETTER AND COPIES OF ANY RELEVANT DOCUMENTS OR NOTICES**

SEE ATTACHED

Social Security Number: [REDACTED]

Case Number: \_\_\_\_\_

Date of Birth: EX-4

**I authorize the Office of Congressman John K. Delaney to make inquiries on my behalf:**

Signature EX-4

Date 1/15/13

**PLEASE RETURN THIS SIGNED FORM AND ALL SUPPORTING MATERIAL TO:**

Rep. John K. Delaney  
1632 Longworth House Office Building • Washington, DC 20515 • FAX: 202-225-2193

**Modelski, Diana**

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**From:** Officer and Gentleman  
**Sent:** Wednesday, January 16, 2013 11:28 AM  
**To:** Holding, Sonny  
**Subject:** RE: Your case file has been transfered to Congressman John Delaney.  
**Attachments:** Privacy Release\_Delaney.jpg

Good morning Mr. Holding,


Thank you for your assistance in this matter. The chronology started on 10/18/12 with my e-mail message to Congressman Van Hollen's office. A letter from his office went to EPA dated 10/23/12. EPA-HR provided a response to EPA-HQ, Office of Administration and Resource Management dated 11/30/12, and the OARM provided a response to Congressman Van Hollen's office dated 12/11/12. On 12/17/12 I received an e-mail message from Congressman Van Hollen's office with a copy of the response letter from EPA. I provided a rebuttal to Congressman Van Hollen's office on 12/18/12 in reference to the EPA-HR letter and its inaccuracies.

On 12/18/12 Congressman Van Hollen's office sent a second inquiry to EPA requesting information be clarified since there were clearly misrepresentations. On 1/7/13, I received an e-mail message from my supervisor who attached a copy of a response letter addressed to Congressman Van Hollen with no date, or signature acknowledging that I should receive my military leave retroactively for the 4 years and that I should be paid for the leave since I have been medically retired. I am not sure if that letter was actually sent to Congressman Van Hollen.

To date, I have not received my retroactive military leave nor have I been paid for it. The other issues are the necessary updates in the personnel system that reflect my military status and 10 point veterans preference, and promotion considerations, (GS-12 and GS-13), while I was on active duty.

I have attached the signed privacy release statement. Please provide me with a copy of the response letter from EPA acknowledging retroactive reinstatement of my military leave, if it exists.

Thanks again,



---

**From:** [Sonny.Holding@mail.house.gov](mailto:Sonny.Holding@mail.house.gov)  
**To:**  
**Subject:** Your case file has been transfered to Congressman John Delaney.  
**Date:** Tue, 15 Jan 2013 17:49:08 +0000

Charles,

We have received your casework file on transfer from Congressman Van Hollen's office. Before we can begin work on your case, we are going to need a Privacy Release Agreement from you. I have attached one to this email. Once signed, you can scan it and email it back to me or fax it at 202-225-2193.



**DISTRICT OFFICE OF  
CONGRESSMAN CHRIS VAN HOLLEN**

**51 Monroe Street, Suite 507  
Rockville, MD 20850**

**Phone: (301) 424-3501 Fax: (301) 424-5992**

**Date: 1/8/2013**

**To: Mr. David McIntosh**

**Fax: (202) 501-1519**

**Phone: (202) 564-5200**

**From: Lindsay Camacho**

**Re: Congressional Inquiry – Mr. *Wile***

---

**Attention: Christina Moody**

**Dear Ms. Moody:**

I am glad that we were able to discuss Mr. *Wile* case earlier today. I have attached a copy of the letter that he provided our office regarding his concerns with the EPA's response dated December 11, 2012. I am enclosing a copy of the response and the attached internal memorandum.

Congressman Van Hollen would appreciate the EPA reviewing Mr. *Wile* concerns and advising him of its findings. Please let me know if you have any questions.

**Kind regards,**

**Lindsay Camacho  
Office of Rep. Chris Van Hollen  
[lindsay.camacho@mail.house.gov](mailto:lindsay.camacho@mail.house.gov)**

**Number of Pages: 5 (including cover)**

**Camacho, Lindsay**

**Subject:**

Ex-L

---

**From:** Officer and Gentleman

**Sent:** Tuesday, December 18, 2012 12:34 AM

**To:** Camacho, Lindsay

**Cc:** c g

**Subject:** FW: Gasque DD214

Hello again Ms. Camacho,

It really is sad that a Government agency can be so mis-informed when they have access to all of my personnel actions and records. I am forwarding you a copy of the message to my supervisor providing him with a copy of my DD-214 which is evidence of all of my active duty time from September 2008 until September 30, 2012. As you can see the message below is dated 1 October 2012. Ms. Johnson states that someone requested a copy of my military orders, no request came to me verbally or in writing or I would have gladly provided the documentation. My complete set of orders were provided to my supervisor, Bill Long, on 10/19/11 who confirmed receipt 10/24/11 via e-mail. A follow up DD-214 was provided 1 October 2012 verifying the 4 years of active duty, also requesting that he forward the DD-214 to personnel (see e-mail below).

Ms. Johnson states that I was given 15 days and 22 days of military leave to use during that fiscal year. Interesting, I was told that I could not use my military leave while on active duty because the 15 days was authorized for annual inactive duty training for my reserve duty. I have been on Leave Without Pay for 4 years, why would I not use those leave days if I had access to them? It is simple, while on active duty you accrue 2.5 days of leave per month. By law, a Government employee can not double-dip, meaning you can not earn and use military leave from two Government agencies at the same time nor can you work for two Government entities at the same time and draw dual benefits. According to the USERRA law I should receive 15 days and 22 days of military leave each year. The 15 days because I am a reservist, and the 22 days because of my active duty time in support of the war.

According to my current military leave balance I have 240 hours which translates to 30 days of military leave. Based on Ms. Johnson's calculation I should have 300 hours reflecting on my leave and earnings statement. I am not sure how she calculated "a total of 66 days of military leave."

Ms. Johnson states that she has "spoken to my supervisor, David Rowson and he had not considered me for promotion since 2005". Well, that would make perfect sense because David Rowson has not been my supervisor since 2004. Bill Long has been my supervisor from January 2004 to the present. So again Ms. Johnson has mis-information. Not only does 5 CFR 353.106 apply, but 353.107 and 353.108 are applicable as well.

I am not requesting anything unreasonable and I have supporting documentation for every statement that I have made. Some of the statements that Ms. Johnson has made are absolutely false and have no basis. And it took them 2 months to come up with this information that is so far from the truth. This is really insulting.

Thank you again for your support on these issues. Please convey the "truth" to Congressman Van Hollen.

Ex-L



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

RECEIVED

DEC 28 2012

By Office of  
Congressional Relations

DEC 11 2012

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Chris Van Hollen  
Member, U.S. House of Representatives  
51 Monroe Street, Suite 507  
Rockville, MD 20850

Dear Congressman Van Hollen:

Thank you for your letter dated October 23, 2012 on behalf of your constituent, Mr. *Ex. 1* who requested military leave and promotions while on active duty from September 19, 2008 thru September 20, 2012.

As required, Mr. *Ex. 1* provided the EPA's human resources center with his official military orders recalling him to active duty in support of Operation Iraqi Freedom, effective September 19, 2008. The orders covered 400 days of support for which he received a 15-day credit of military leave awarded to those on active duty, and an additional 22-day credit of military leave awarded to those in support of Operation Iraqi Freedom. Mr. *Ex. 1* has been advised to provide military orders for the entire active duty period to receive a 22-day credit of military leave per calendar year of active duty.

Employees are to be considered for promotions even if they are on active duty. Mr. *Ex. 1* received his within-grade increases as projected on January 17, 2010 and January 15, 2012. Since employees in career ladders are not automatically entitled to career ladder promotions, Mr. *Ex. 1* is encouraged to discuss any promotion expectations with his supervisor.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in the Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

Craig E. Hooks  
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 17 2013

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable John K. Delaney  
Member, U.S. House of Representatives  
6 West Washington Street  
Suite 210  
Hagerstown, MD 21740

Dear Congressman Delaney:

Thank you for your letter dated February 19, 2013 on behalf of your constituent, Mr. *EX-6* who requested assistance in finalizing his retroactive military leave pay.

Mr. *EX-6* timecards from 2008 to 2012 have been corrected and are being submitted to the Defense Financial Accounting System for the back pay calculation and processing.

Mr. *EX-6* also raised concerns that the EPA's personnel system did not reflect his military status and 10 point veterans' preference while he served on active duty. Based on the documentation Mr. *EX-6* provided, his personnel record was changed to reflect 5 point veteran's preference. Our human resources center has requested additional documents from him regarding his disability status; upon receipt of these, he will be notified and his personnel records updated accordingly.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig E. Hooks".

Craig E. Hooks  
Assistant Administrator

R3-14-000-6754-C

United States Congress

WASHINGTON, DC 20510

March 14, 2014

Mr. Shawn M. Garvin  
Regional Administrator  
US Environmental Protection Agency  
Region III  
1650 Arch Street  
Philadelphia, PA 19103

Hon. Robert Summers  
Secretary  
Maryland Department of the Environment  
Air & Radiation Management  
Administration  
Docket 21-13  
1800 Washington Boulevard, Suite 720  
Baltimore, MD 21230

RE: Modernization of Holcim (US) Hagerstown, MD Cement Plant (Docket: 21-13)

Dear Administrator Garvin and Secretary Summers:


We are writing in support of the modernization of the Hagerstown Plant proposed by Holcim (US) and to urge the State's Department of the Environment to expedite the review and issuance of a decision on the company's request for a permit to construct and a Prevention of Significant Deterioration (PSD) permit that are required for the planned improvements to the Hagerstown Plant under the New Source Review permits (NSR) section of the Clean Air Act. Our interest in this project is based on the substantial economic and environmental benefits that will accompany the modernization of this plant for the community of Hagerstown and Western Maryland more broadly.

Over the last decade, Holcim (US) has invested more than \$2 billion to upgrade and expand its U.S. facilities. The modernization of the Hagerstown Plant is the latest example of this sustained commitment. The Hagerstown quarry and cement plant have been operating for more than 110 years. The modernization project will ensure that this facility will continue to be a mainstay of Maryland's economy for many more years to come. The plant currently employs more than 90 people and contributes more than \$30 million to the local economy annually. Up to 300 construction jobs will be created during the modernization project, and the operation of the upgraded plant will require the addition of several new jobs.


The community will not only enjoy economic benefits from the modernization, but environmental ones as well. The modernization will enable the plant to achieve compliance with new federal air quality regulations. As a result, the upgraded plant will reduce its environmental footprint. Additionally, the plant will achieve considerably improved energy efficiency.

The modernization project will enable the Hagerstown Plant to be a shining example of sustainability through economic investment and environmental performance in the State of Maryland. As such, we urge you to quickly review and issue a decision on the permits Holcim (US) has applied for so that construction to on the facilities needed for the Plant to achieve Clean Air Act compliance may move forward.

Sincerely,

  
Benjamin L. Cardin  
United States Senator

  
Barbara A. Mikulski  
United States Senator

  
John Delaney  
United States Representative

BLC:jrk



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

APR 28 2014

The Honorable John Delaney  
U. S. House of Representatives  
Washington, D.C. 20515

Dear Representative Delaney:

Thank you for your letter of March 14, 2014, concerning the proposed modernization project at the Holcim (US) Portland cement plant in Hagerstown, Maryland.

As your letter noted, the Maryland Department of the Environment (MDE) bears primary authority for the issuance of New Source Review permits in the state of Maryland. In accordance with Maryland's approved State Implementation Plan, MDE has prepared a draft permit for the U.S. Environmental Protection Agency (EPA) and public review.

EPA has reviewed the draft permit, and submitted comments to MDE, which are enclosed. EPA comments are provided to MDE to ensure that the project meets federal Clean Air Act requirements. Our comments are also intended to ensure that the project record provides adequate support for permit decisions, and to make certain that the basis for permit decisions are readily accessible to the public. MDE has addressed EPA's concerns and it is our understanding that final permit issuance is imminent.

If you have any questions, please do not hesitate to contact me or have your staff contact Mrs. Linda Miller, EPA's Maryland Liaison, at 215-814-2068.

Sincerely,

A handwritten signature in black ink, which appears to read "Shawn M. Garvin", is positioned above the typed name.

Shawn M. Garvin  
Regional Administrator

Enclosure



## Enclosure

### Project Description

The proposed project involves modification of the existing facilities at Holcim's Hagerstown, MD facility. The modifications will include: converting the existing long-dry kiln to a pre-heater/pre-calcliner configuration, including two new high efficiency membrane baghouses for particulate matter control and dry lime injection for SO<sub>2</sub> control; a new clinker cooler and the reconfiguration of associated appurtenances to accommodate the new equipment; modifications to the existing finish and raw mills; reconfiguration of the fuel handling system to accommodate the new kiln; upgrades to the filter/dust collection system; a new 800 kw diesel fired emergency generator. The Hagerstown plant is located in Washington County, MD, which is in attainment for all criteria pollutants except PM<sub>2.5</sub>. Additionally, Washington County is part of the ozone transport region.

### Comments

1. According to MDE's technical review, Holcim has determined (and MDE agrees) that the proposed modification will result in a significant net increase of carbon monoxide (CO), and greenhouse gases (GHGs), thus triggering PSD requirements for only those pollutants. Based on the information submitted, EPA agrees. However, the methodology employed to reach this determination appears to be incorrect. Page 8 of the "Review of a permit to Construct Application" states that "...the *projected emissions* (emphasis added) of PM<sub>10</sub>, PM, NO<sub>2</sub>, SO<sub>2</sub>, CO, and GHG are greater than the significant emissions rate for each pollutant. Therefore, a Step 2 Net Emissions Increase Analysis is required..." This is incorrect. A Step 1 analysis involves comparing baseline actual emissions to the emissions increase from the project at hand. If the increase over the baseline is above the significant emissions rate for any pollutant, then a Step 2 netting analysis is required. In the case of NO<sub>2</sub>, for example, future emissions from the modified kiln are reported to be 765 tpy. Emissions from the 2005-2006 baseline period are reported to be 1938 tpy. While it is correct that emissions decreases are not considered during Step 1, it is not correct to consider this a 765 tpy increase. The NO<sub>2</sub> increase from the kiln modification should be zero. Continuing the analysis this way for the other new/modified sources associated with the project appears to result in a determination that the project will not result in a significant increase in emissions of NO<sub>2</sub>, or any pollutant other than CO or GHG. Therefore, a Step 2 netting analysis is not necessary for any pollutant other than CO and GHG. The same appears to be true for the nonattainment NSR applicability determinations for NO<sub>x</sub> (as a precursor to ozone) and PM<sub>2.5</sub>. The PSD and nonattainment NSR applicability determinations should be revised accordingly.
2. The PSD approval includes GHG BACT limits of 0.94 tons (1880 lbs) CO<sub>2</sub> per ton of clinker, per calendar year average, as well as 799,056 tons of CO<sub>2e</sub> per calendar year from the 5-stage pre-heater/pre-calcliner kiln and the new generator. EPA has a number of concerns regarding these limits. First, calendar year averaging periods are not practically enforceable. A 12-month averaging period is acceptable, but it must be rolled monthly, not based on a calendar year. Second, the ton per clinker limit should be expressed in term of CO<sub>2e</sub>. The PSD determination states that the methane and nitrous oxide emissions are "insignificant." EPA does not necessarily agree with this assessment, and the record does not support it. Please quantify the





methane and nitrous oxide emissions, and revise the permit so that ton per clinker permit is expressed in terms of CO<sub>2</sub>e. Additionally, we note that the Universal Cement permit in Illinois (EPA Region V) contains a BACT limit of 1860 lbs CO<sub>2</sub>e/ton clinker, which is lower than what is proposed at Holcim, and is expressed in terms of CO<sub>2</sub>e. The permit should be revised accordingly, or the record should be revised to justify the difference.

#### Comments Relating to the Modeling Analysis

##### **1. Appendix G, Section 3.2 Meteorological Data**

In the future, the applicant should survey nearby National Weather Service (NWS) surface sites to determine if a more representative site is available for modeling analyses. EPA recognizes that the facility has used the Baltimore-Washington Airport in previous modeling analyses and that using another NWS surface site would represent a deviation from past practices.

##### **2. Appendix G, Section 3.4 Receptor Grid**

Given the long property boundary and public roads and access areas within Holcim's property boundary, the applicant should provide some assurances that the model receptor grid accurately reflects the definition of ambient air.

##### **3. Appendix G, 3.7.3. Source Parameters and Emission Rates**

Please clarify if the stack parameters listed in Table 3.2 represent a new stack or emissions from an existing stack. The 2011 National Emission Inventory or NEI for Holcim contains only one stack that is on the order of the stack height listed in this table. The 2011 NEI includes only two (2) CO sources for Holcim and their stack heights are substantially lower than the stack used in the modeling analysis.



AL 14-000-4736  
**Congress of the United States**  
**Washington, DC 20515**

January 31, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy:

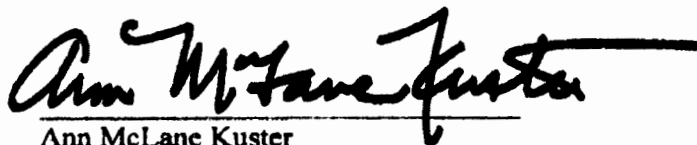
Thank you for your efforts to address the challenge of reducing harmful carbon emissions that are jeopardizing human health and threatening our environment. We were pleased to see your agency recently propose standards under the Clean Air Act for new power plants, and we applaud your commitment to develop standards for reducing emissions from existing power plants. As the federal representatives for the nine states that participate in the Regional Greenhouse Gas Initiative, we urge you to work with our states as you develop standards for existing power plants.

The Regional Greenhouse Gas Initiative (RGGI) is a cooperative effort among our nine states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont—to cap and reduce carbon dioxide emissions from the power sector. Since 2005, carbon dioxide emissions from power plants in the RGGI region have decreased by more than 40 percent. By 2020, estimates show that carbon dioxide emissions from power plants in our states will be half of what they were in 2005. The RGGI states have locked in these reductions and generated a cumulative total of more than \$1.4 billion through quarterly competitive CO<sub>2</sub> allowance auctions. The majority of these receipts have been reinvested into individual state programs for energy efficiency, direct energy bill assistance, and climate change adaptation planning to further support the regional clean energy economy.

As the first market-based regulatory program in the United States to reduce greenhouse gas emissions, we believe that RGGI and our states offer a unique perspective that will be beneficial to your efforts. We urge you to use the RGGI experience as a benchmark for what is possible on a national level, and to work with RGGI to develop a flexible national standard that will significantly reduce carbon emissions while encouraging regional cooperation and providing equitable treatment for states that have been leading the way on this issue.

We thank you for your attention to our request, and look forward to working with you on this and other efforts to protect our environment and our health.

Sincerely,



Ann McLane Kuster  
Member of Congress

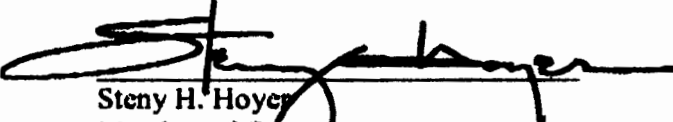



Niki Tsongas  
Member of Congress

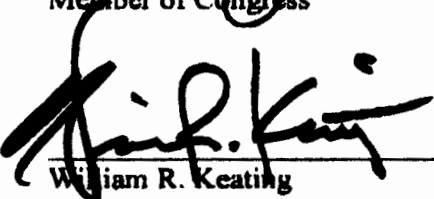
The Honorable Gina McCarthy

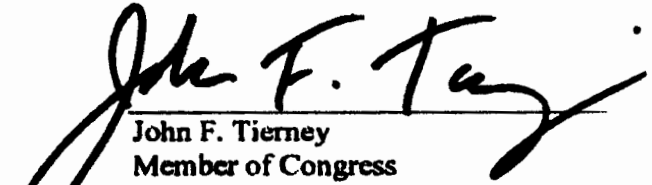
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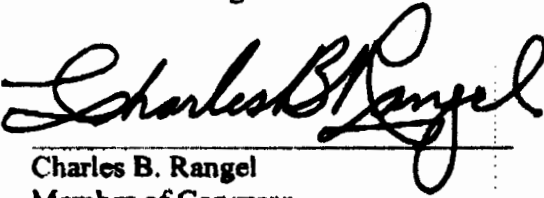
January 31, 2014

  
Steny H. Hoyer  
Member of Congress

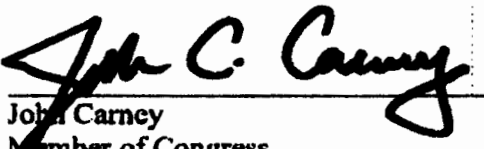
  
Joseph P. Kennedy, III  
Member of Congress

  
William R. Keating  
Member of Congress


  
John F. Tierney  
Member of Congress

  
Charles B. Rangel  
Member of Congress

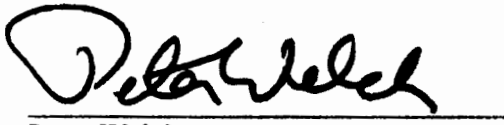
  
Michael Capuano  
Member of Congress

  
John Carney  
Member of Congress

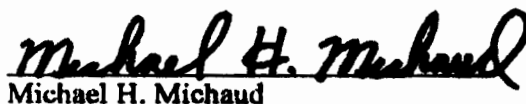
  
David N. Cicilline  
Member of Congress

  
Chellie Pingree  
Member of Congress

  
Katherine Clark  
Member of Congress

  
Peter Welch  
Member of Congress

  
Paul Tonko  
Member of Congress

  
Michael H. Michaud  
Member of Congress

  
Jim Langevin  
Member of Congress

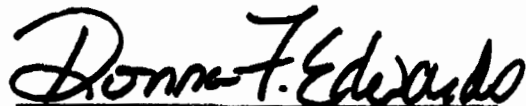
The Honorable Gina McCarthy

Page 3

January 31, 2014



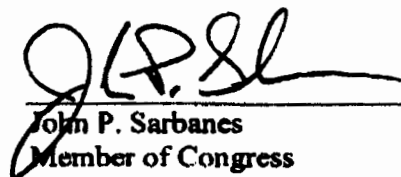
John Delaney  
Member of Congress



Donna Edwards  
Member of Congress



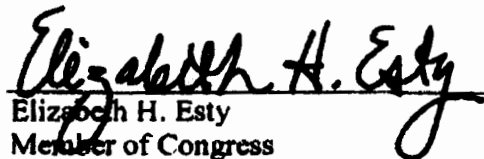
Elijah E. Cummings  
Member of Congress



John P. Sarbanes  
Member of Congress



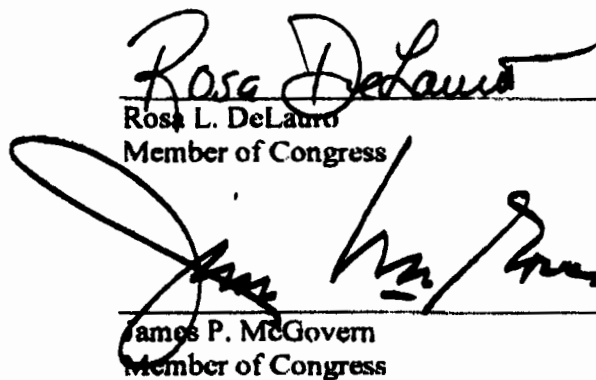
Chris Van Hollen  
Member of Congress



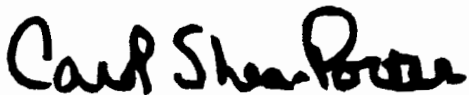
Elizabeth H. Esty  
Member of Congress



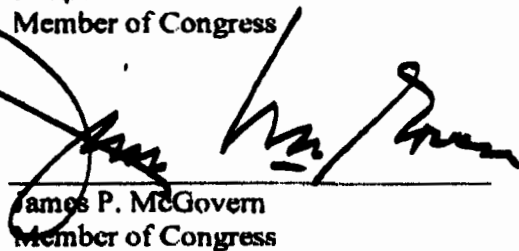
John B. Larson  
Member of Congress



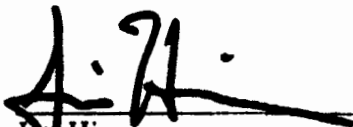
Rosa L. DeLauro  
Member of Congress



Carol Shea-Porter  
Member of Congress



James P. McGovern  
Member of Congress



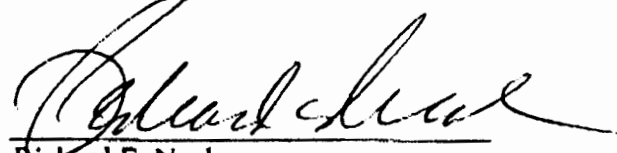
Jim Himes  
Member of Congress



Joe Courtney  
Member of Congress



Eliot L. Engel  
Member of Congress

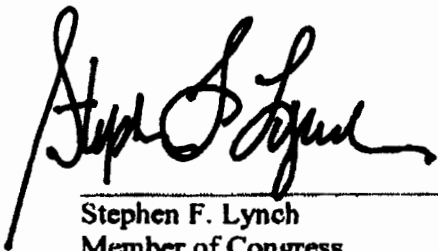


Richard E. Neal  
Member of Congress

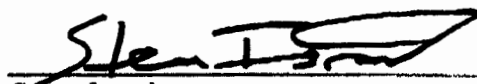
The Honorable Gina McCarthy

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January 31, 2014




Stephen F. Lynch  
Member of Congress



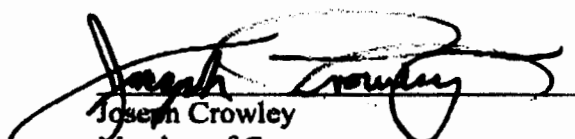
Steve Israel  
Member of Congress



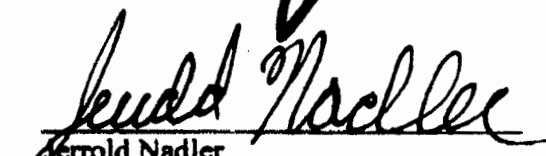
José E. Serrano  
Member of Congress



Timothy H. Bishop  
Member of Congress



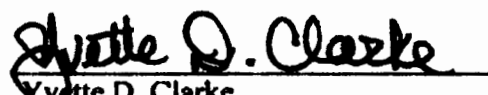
Joseph Crowley  
Member of Congress



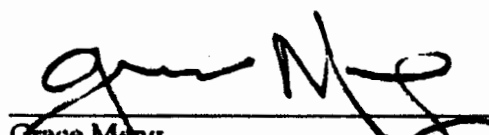
Jerrold Nadler  
Member of Congress




C.A. Dutch Ruppersberger  
Member of Congress



Yvette D. Clarke  
Member of Congress



Grace Meng  
Member of Congress



Carolyn B. Maloney  
Member of Congress



Carolyn McCarthy  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 22 2014

OFFICE OF  
AIR AND RADIATION

The Honorable John Delaney  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Delaney:

Thank you for the letter of January 31, 2014, from you and your colleagues, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the upcoming carbon pollution guidelines for existing power plants and standards for modified and reconstructed power plants. The Administrator has asked that I respond on her behalf.

As we consider guidelines for existing power plants, the EPA is engaged in vigorous and unprecedented outreach with the public, key stakeholders, and the states. We are doing this because we want—and need—all available information about what is important to each state and stakeholder. We know that guidelines require flexibility and sensitivity to state and regional differences.

The EPA has already heard from many states that they would like the flexibility to work jointly to meet emission guidelines. We are taking into consideration this and all the ideas that we have heard regarding what can be done to accommodate state flexibility in the design of the state plans. From conversations and meetings with the Regional Greenhouse Gas Initiative (RGGI) and its member states, we have a greater appreciation for the work RGGI has done to reduce carbon pollution. We welcome further feedback and ideas from you as well as the representatives from RGGI about how the EPA should develop and implement carbon pollution guidelines for existing power plants under the Clean Air Act. Interested stakeholders can send their thoughts through email at [carbonpollutioninput@epa.gov](mailto:carbonpollutioninput@epa.gov) and can also learn more about what we are doing at [www.epa.gov/carbonpollutionstandard](http://www.epa.gov/carbonpollutionstandard).

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe".

Janet G. McCabe  
Acting Assistant Administrator

# Congress of the United States

Washington, DC 20515

14-000-3591

December 16, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy:

As members of the United States House of Representatives, we urge you to swiftly propose a rule to restore protections to all of our nation's waterways. For the sake of our communities and the prospects of having waterways clean enough to swim in, fish from, and drink from, we must have a rule that protects all waters of the United States under the Clean Water Act, and we need your leadership to make that vision a reality.

Last year we celebrated the 40<sup>th</sup> anniversary of the Clean Water Act, which has been one of the most significant environmental laws in our nation's history. As was said on the floor of the House in 1972, "the conference bill defines the term 'navigable waters' broadly for water quality purposes. It means all 'the waters of the United States' in a geographical sense. It does not mean the 'navigable waters of the United States' in the technical sense as we sometimes see in some laws."<sup>1</sup> This definition protected our country's precious waterways by safeguarding our drinking water, alleviating flooding conditions, providing recreational opportunities, maintaining fish and wildlife habitat, and promoting a healthy economy.

However, two Supreme Court decisions – *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* and *Rapanos v. the United States* – have created significant uncertainty regarding federal jurisdiction under the Clean Water Act. According to the Environmental Protection Agency (EPA), these decisions have left almost 60 percent of our country's streams, at least 20 million acres of wetlands, and the drinking water for 117 million Americans at increased risk of pollution.

We are encouraged by EPA's commitment to follow sound science through their recent science report, which illustrates the significant relationship between tributaries and wetlands and the larger bodies of water into which they feed. EPA must continue to move this process forward swiftly and efficiently to prevent more pollution from entering our waterways.

---

<sup>1</sup> House debate, *Congressional Record*, vol. 118, part 25, (October 4, 1972), p. 33756

As you have said, "We must ensure that water – so critical to human health, quality of life, and economic activity – is protected from dangerous contaminants, including new, emerging ones." We call on EPA to continue to prioritize a rulemaking to restore protections to all of our waterways. We stand ready to work with you and your Administration to help America on a path to a future where all our waterways are protected from dangerous pollution. Thank you for your support and leadership.

Sincerely,



John D. Dingell  
Member of Congress



Jim Moran  
Member of Congress



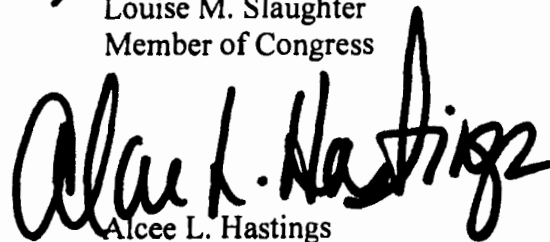
Louise M. Slaughter  
Member of Congress



Bradley S. Schneider  
Member of Congress



Chris Van Hollen  
Member of Congress



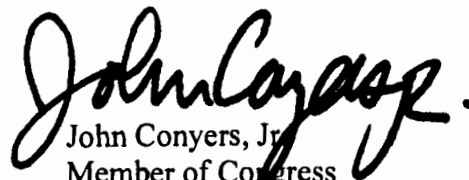
Alcee L. Hastings  
Member of Congress



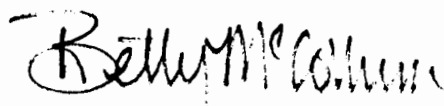
Kathy Castor  
Member of Congress



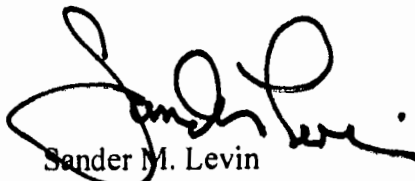
Mike Quigley  
Member of Congress



John Conyers, Jr.  
Member of Congress



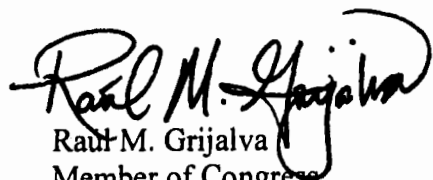
Betty McCollum  
Member of Congress



Sander M. Levin  
Member of Congress



Earl Blumenauer  
Member of Congress



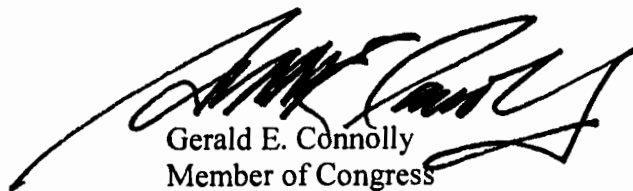
Raul M. Grijalva  
Member of Congress



Mark Pocan  
Member of Congress



Frederica S. Wilson  
Member of Congress



Gerald E. Connolly  
Member of Congress

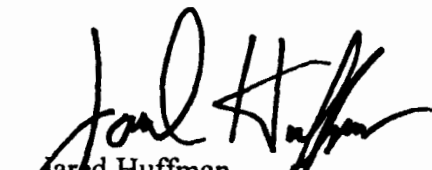


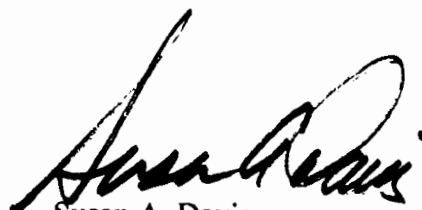
Rush Holt  
Member of Congress

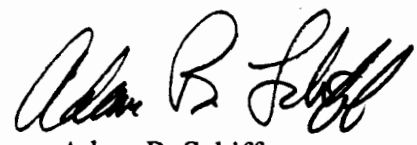



Barbara Lee  
Member of Congress

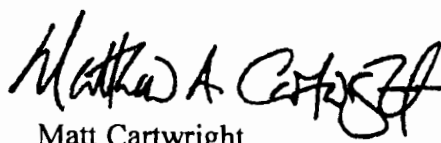



  
Jared Huffman  
Member of Congress

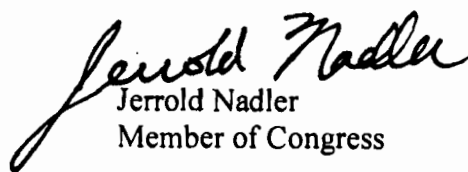
  
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Adam B. Schiff  
Member of Congress

  
Jackie Speier  
Member of Congress

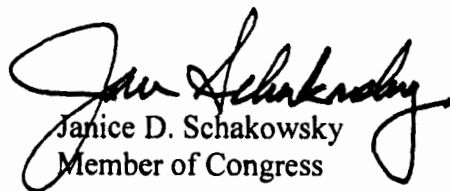
  
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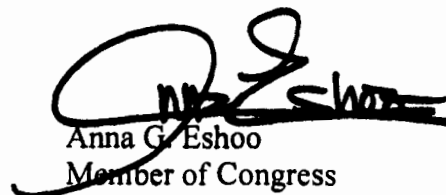
  
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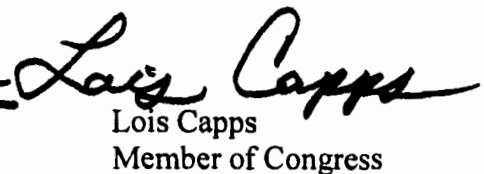
  
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Steve Cohen  
Member of Congress

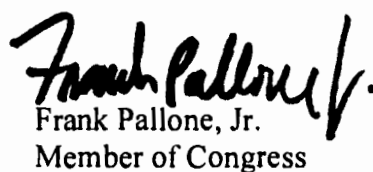
  
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Janice D. Schakowsky  
Member of Congress

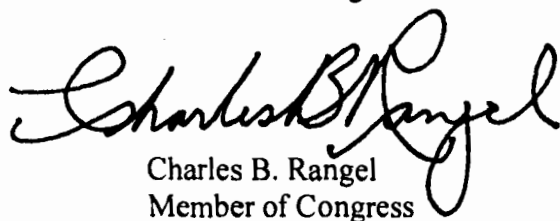
  
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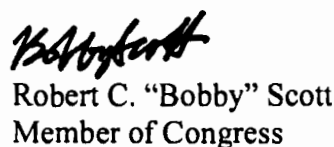
  
Lois Capps  
Member of Congress

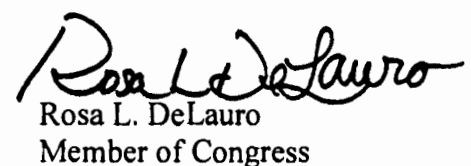
  
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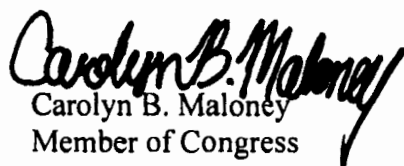
  
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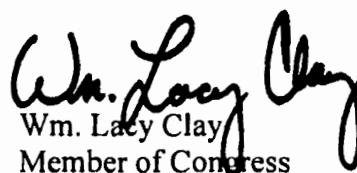
  
Joe Lofgren  
Member of Congress

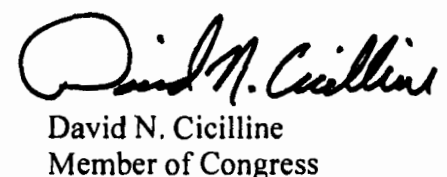
  
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Member of Congress

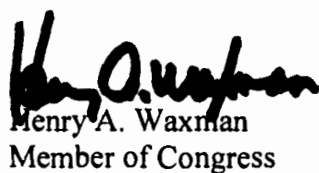
  
Robert C. "Bobby" Scott  
Member of Congress

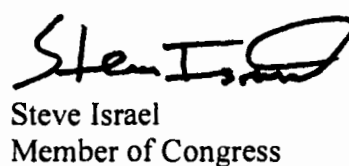
  
Rosa L. DeLauro  
Member of Congress

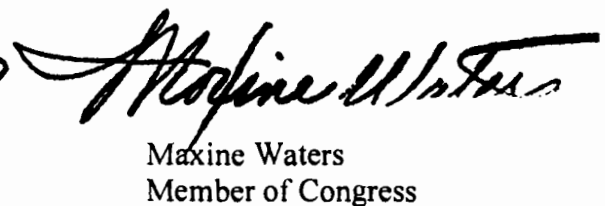
  
Carolyn B. Maloney  
Member of Congress

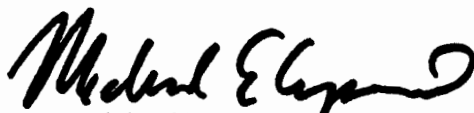
  
Wm. Lacy Clay  
Member of Congress

  
David N. Cicilline  
Member of Congress

  
Henry A. Waxman  
Member of Congress

  
Steve Israel  
Member of Congress

  
Maxine Waters  
Member of Congress



Michael E. Capuano  
Member of Congress



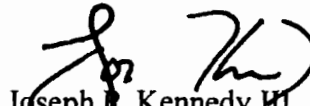
Judy Chu  
Member of Congress



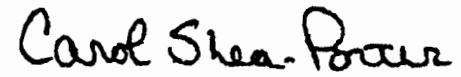
Paul Tonko  
Member of Congress



Daniel Lipinski  
Member of Congress



Joseph P. Kennedy III  
Member of Congress



Carol Shea-Porter  
Member of Congress



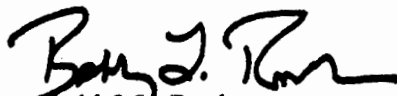
Henry C. "Hank" Johnson  
Member of Congress



Michael M. Honda  
Member of Congress



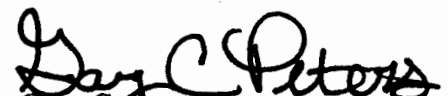
Keith Ellison  
Member of Congress



Bobby L. Rush  
Member of Congress



Gwen Moore  
Member of Congress



Gary C. Peters  
Member of Congress



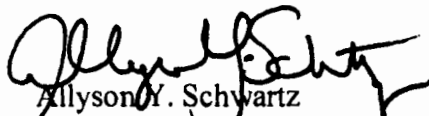
Donna F. Edwards  
Member of Congress



C.A. Dutch Ruppersberger  
Member of Congress



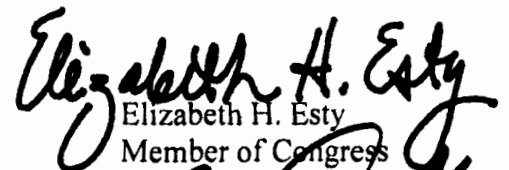
Bill Pascrell, Jr.  
Member of Congress



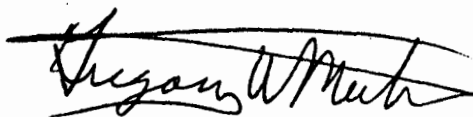
Allyson Y. Schwartz  
Member of Congress



Diana DeGette  
Member of Congress



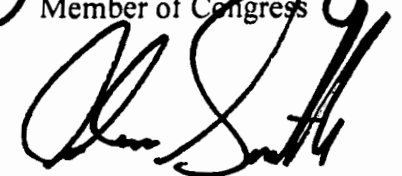
Elizabeth H. Esty  
Member of Congress



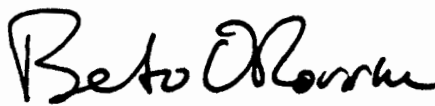
Gregory W. Meeks  
Member of Congress



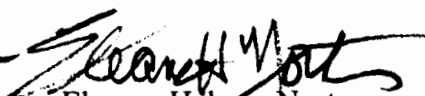
Scott H. Peters  
Member of Congress




Adam Smith  
Member of Congress




Beto O'Rourke  
Member of Congress




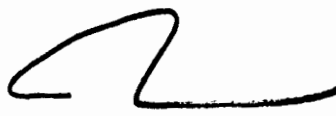
Eleanor Holmes Norton  
Member of Congress

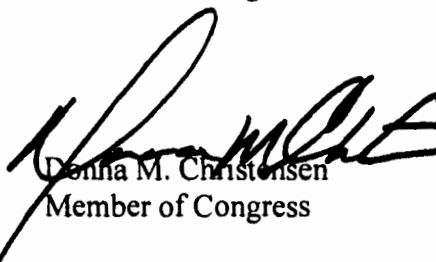



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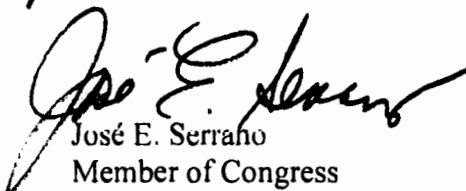
  
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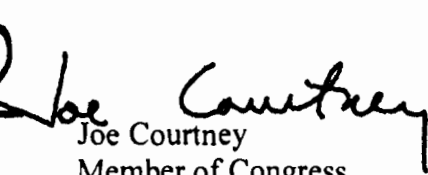
  
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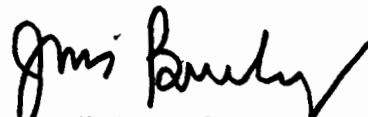
  
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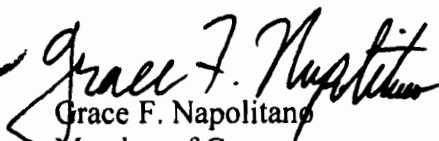
  
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Gloria Negrete McLeod  
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Chellie Pingree  
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Theodore E. Deutch  
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Grace F. Napolitano  
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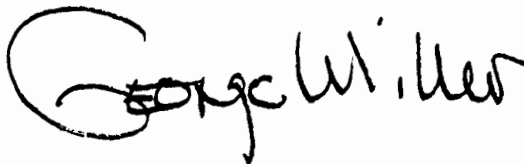
  
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Lois Frankel  
Member of Congress

  
Jared Polis  
Member of Congress

  
Daniel T. Kildee  
Member of Congress

  
Jim Gohmert

  
George W. Miller



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 19 2014

The Honorable John Delaney  
House of Representatives  
Washington, D.C. 20515

OFFICE OF WATER

Dear Congressman Delaney:

Thank you for your December 16, 2013, letter to the U.S. Environmental Protection Agency requesting that the EPA propose a rule that protects all waters of the United States under the Clean Water Act. The EPA appreciates your leadership on this important issue.

On March 25, 2014, the EPA and the U.S. Army Corps of Engineers released a proposed rule that would clarify the jurisdiction of the Clean Water Act. The proposed rule would provide greater consistency, certainty, and predictability nationwide by improving clarity in determining where the Clean Water Act applies. These improvements are necessary to reduce costs and minimize delays in the permit process and protect waters that are vital to public health, the environment, and the economy. The agencies' process for making these improvements has been and will be transparent, based on the best available science, consistent with the law, and will include the opportunity for public input. The EPA and the Corps have received requests for a rulemaking from members of Congress, state and local officials, industry, agriculture, environmental groups, and the public.

This proposed rule takes into consideration the latest peer-reviewed science, including the EPA's draft science report titled: *Connectivity of Streams and Wetlands to Downstream Waters*. The report presents a review and synthesis of more than 1,000 pieces of relevant peer reviewed scientific literature. The EPA's independent Science Advisory Board (SAB) has solicited public comment to discuss the EPA's draft report, and held a public peer review meeting from December 16-18, 2013. Any final regulatory action related to the jurisdiction of the Clean Water Act will be based on the final version of this scientific assessment, which will reflect the EPA's consideration of all comments received from the public and the independent peer review. The SAB panel recently released an initial draft of their peer review report and will hold public teleconferences on April 28 and May 2 to discuss their draft report. We anticipate that the SAB will complete its review this summer. The EPA and the Corps will fully evaluate the results of the SAB's review before a final rule is completed.

The agencies' proposed rule focuses on clarifying current uncertainty concerning the jurisdiction of the Clean Water Act that has arisen from recent Supreme Court decisions. For example, the EPA and the Corps are focusing on clarifying protection of the network of smaller waters that feed into larger ones in order to keep downstream water safe from upstream pollution. The agencies are also clarifying protection for wetlands that filter and trap pollution, store water, and help keep communities safe from floods. These clarifications will also result in important economic benefits for the nation's businesses, farmers, energy producers, and others who depend on abundant and reliable sources of clean water.

The proposed rule does not identify any changes to existing regulatory exemptions and exclusions, including those that apply to the agricultural sector that ensure the continuing production of food, fiber, and fuel to the benefit of all Americans. The proposed rule also recognizes waters that are never subject to Clean Water Act regulation, including certain ditches, farm ponds, drain tiles, and others.

Additionally, the EPA and the Army Corps have coordinated with the U.S. Department of Agriculture (USDA) to develop an interpretive rule to ensure that more than 50 specific conservation practices that protect or improve water quality will not be subject to Section 404 dredged or fill permitting requirements. The agencies will work together to implement these new exemptions and periodically identify, review, and update USDA's Natural Resources Conservation Service conservation practice standards and activities that would qualify under the exemption. Any agriculture activity that does not result in the discharge of a pollutant to waters of the U.S. still does not require a permit.

The agencies' proposed Waters of the United States rule was published in the Federal Register on April 21 for a 90-day public comment period. The agencies are launching a robust outreach effort during this period, holding discussions around the country and gathering input needed to shape a final rule. We welcome comments from you and from your constituents on our proposed rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

October 30, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
Room 300, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy:

Nearly eight years ago, Congress approved the Energy Policy Act of 2005, establishing the first Renewable Fuel Standard ("RFS"). In 2007, Congress significantly expanded the 2005 law when it passed the Energy Independence and Security Act of 2007, which increased the mandate to 36 billion gallons of biofuels by 2022. Unfortunately, despite the best intentions of the RFS, its premise and structure were based on many assumptions that no longer reflect the current market conditions, and the imposition of the 2014 volumes now threatens to cause economic and environmental harm. As Congress continues its bi-partisan work to address these concerns, we are writing to request that the EPA use its authority to adjust the 2014 RFS volumes.

As you are aware, the U.S. corn market has been increasingly volatile since the expansion of the RFS in 2007. This reflects the reality that more than 40 percent of the corn crop now goes into ethanol production, a dramatic rise since the first ethanol mandates were put into place in 2005. While well intentioned, the rigid nature of the federal law has not allowed it to change as new realities emerge in the market place. Ethanol now consumes more corn than animal agriculture, a fact directly attributable to the federal mandate. Corn prices are just one example of the economic harm caused by the RFS.

Due to the dramatic expansion of corn ethanol, volatile corn prices have led to the conversion of millions of acres of sensitive wetlands and grasslands into production. According to the EPA's analysis, the lifecycle emissions of corn ethanol in 2012 were higher than those of gasoline – and will be for years to come. Despite promised environmental benefits when the RFS was implemented, the National Academy of Sciences has noted that overall ethanol production and use lowers air and water quality.

Perhaps the newest challenge is the imposition of the statutory requirement of 18.15 billion gallons of renewable fuels in 2014, of which approximately 14.4 billion gallons will be made up by corn ethanol. In particular, the combination of rising ethanol mandates and declining gasoline demand has exacerbated the onset of the E10 blendwall- the point at which the gasoline supply is saturated with the maximum amount of ethanol that current vehicles, engines, and infrastructure can safely accommodate. The EPA explicitly acknowledged this challenge in its final rule implementing the 2013 volumes—"EPA does not currently foresee a scenario in which the market could consume enough ethanol sold in blends greater than E10, and/or produce sufficient volumes of non-ethanol biofuels to meet the volumes of total renewable fuel and advanced biofuel as required by statute for 2014."<sup>1</sup> We understand that the EPA signaled its intention to address these concerns in the 2014 rulemaking and commend the EPA's willingness to use the authority Congress granted to it when crafting the RFS.

While the blendwall is a pressing issue, the federal government can help avoid a dangerous economic situation by adjusting the normally rigid Renewable Fuel Standard mandate down to align with gasoline market conditions and realities. We therefore urge the EPA to consider a fair and meaningful nationwide adjustment to the ethanol mandate in the Renewable Fuel Standard. Prompt action by the EPA can help to ease short supply concerns, prevent engine damage, save jobs across many U.S. industries, and keep families fed. We strongly urge you to exercise your authority and take the necessary steps to protect American consumers and the economy. Thank you for your immediate consideration of this request.

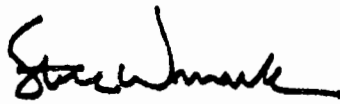
Sincerely,



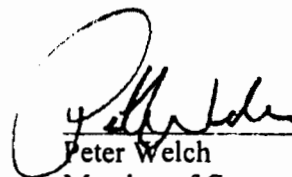
Bob Goodlatte  
Member of Congress



Jim Costa  
Member of Congress



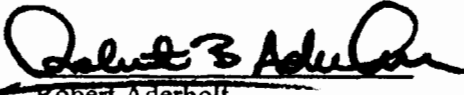
Steve Womack  
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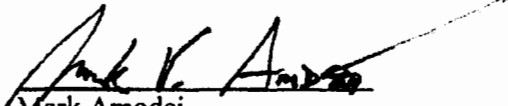


Peter Welch  
Member of Congress


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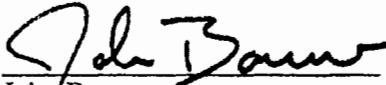
<sup>1</sup> Regulation of Fuels and Fuel Additives: 2013 Renewable Fuel Standards, 78 Fed. Reg. 49,794, 49,823 (Aug. 15, 2013) (to be codified at 40 C.F.R. pt. 80).


  
Robert Aderholt  
Member of Congress

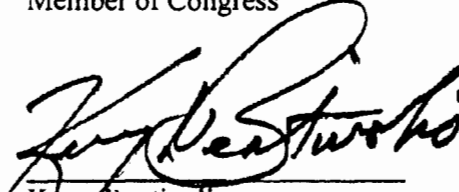
  
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Robert Andrews  
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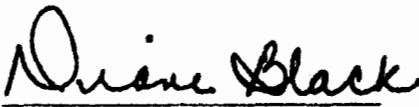
  
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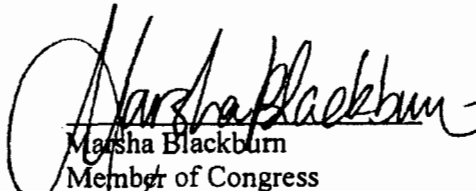
  
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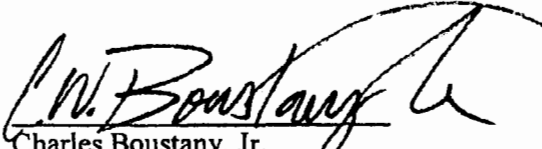
  
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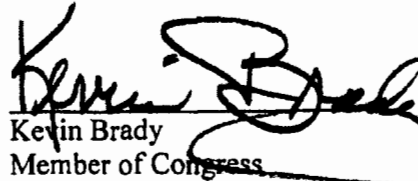
  
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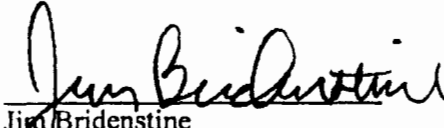
  
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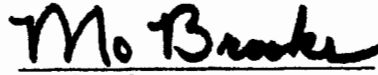
  
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Marsha Blackburn  
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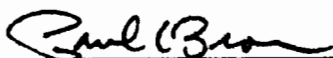
  
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Kevin Brady  
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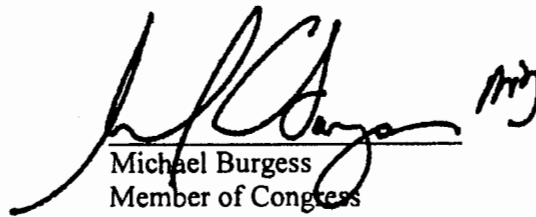
  
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Mo Brooks  
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Paul Broun  
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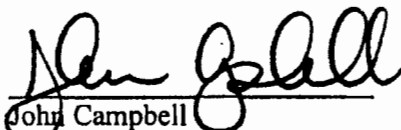
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G.K. Butterfield  
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Ken Calvert  
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John Campbell  
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Shelley Moore Capito  
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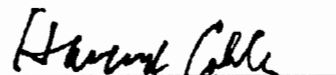
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Steve Chabot  
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Jason Chaffetz  
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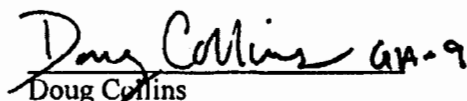
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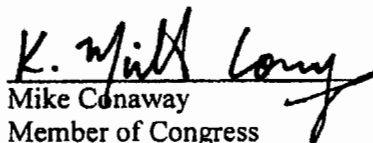
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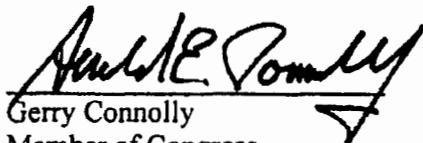
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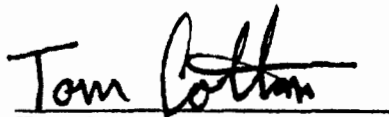
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Gerry Connolly  
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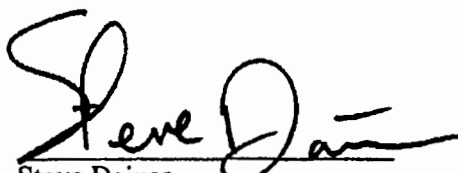
  
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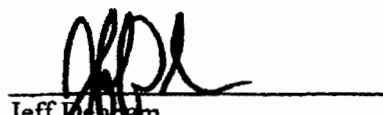
  
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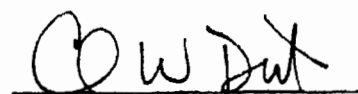
  
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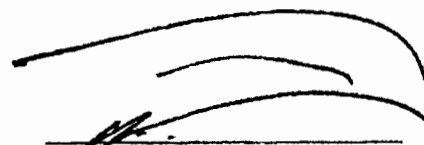
  
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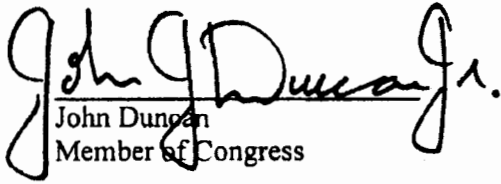
  
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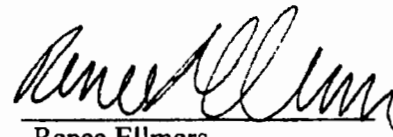
  
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Scott DesJarlais  
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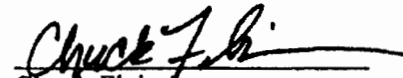
  
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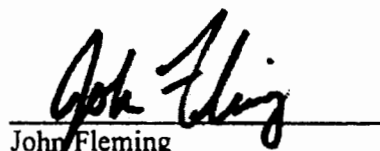
  
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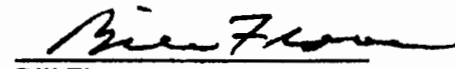
  
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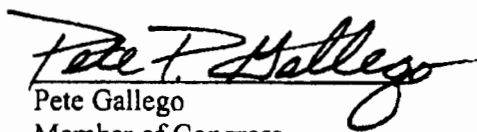
  
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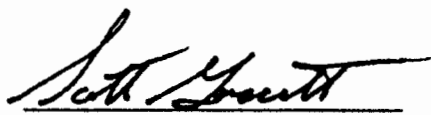
  
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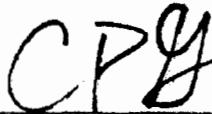
  
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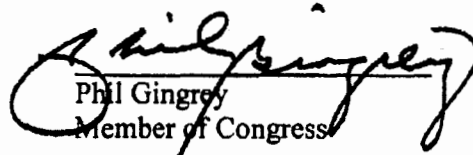
  
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Scott Garrett  
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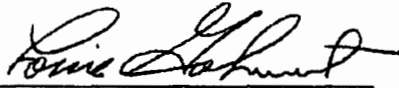
  
Jim Gerlach  
Member of Congress



Chris Gibson  
Member of Congress



Phil Gingrey  
Member of Congress



Louie Gohmert  
Member of Congress



Paul Gosar  
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Kay Granger  
Member of Congress



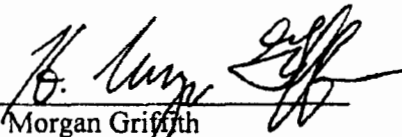
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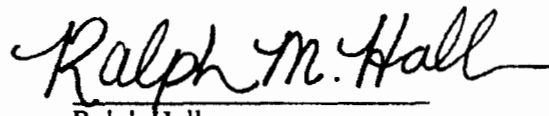
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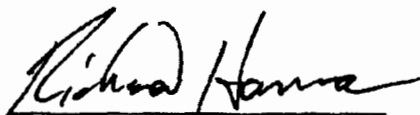
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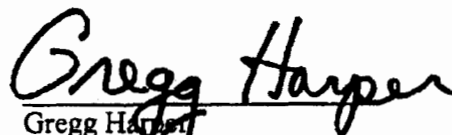
H. Morgan Griffith  
Member of Congress



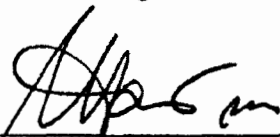
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Member of Congress



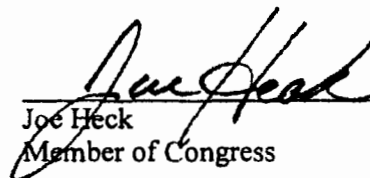
Richard Hanna  
Member of Congress



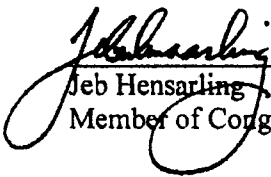
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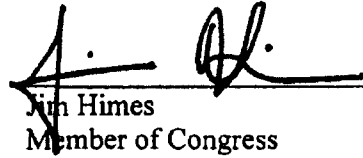


Andy Harris  
Member of Congress

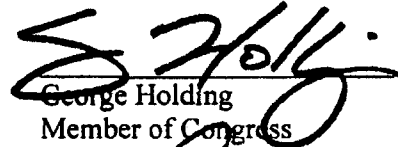


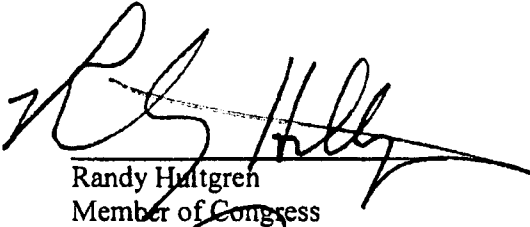
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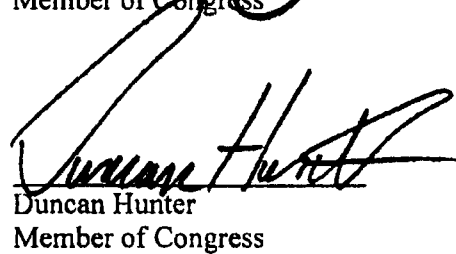
  
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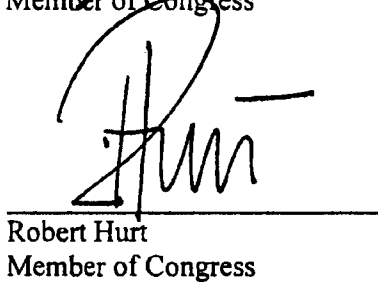
  
Jim Himes  
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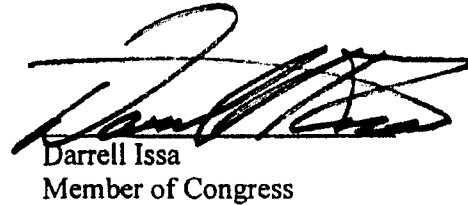
  
Rubén Hinojosa  
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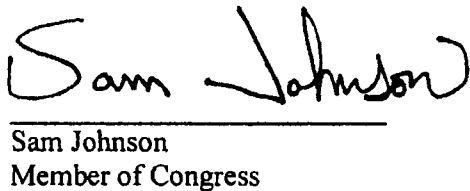
  
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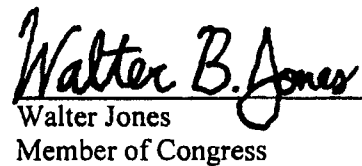
  
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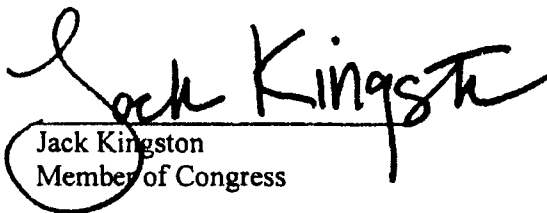
  
Duncan Hunter  
Member of Congress


  
Robert Hurt  
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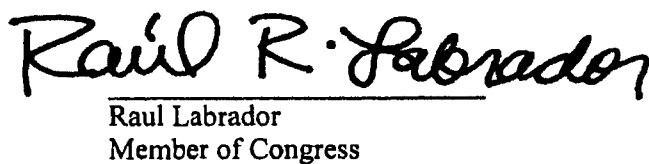
  
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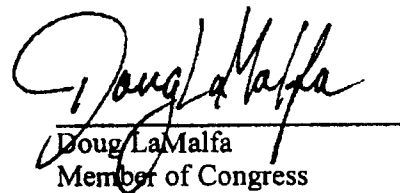
  
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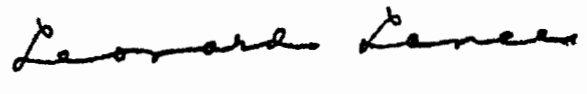
  
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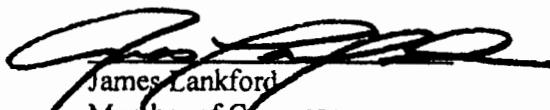
  
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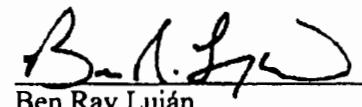
  
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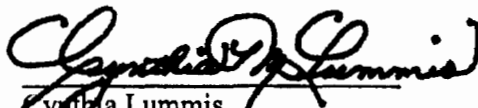
  
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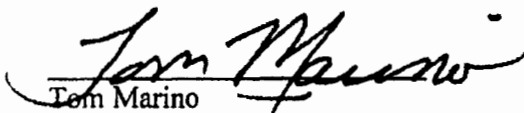
  
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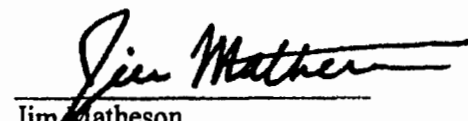
  
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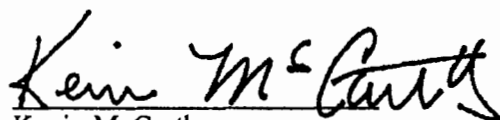
  
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Kenny Marchant  
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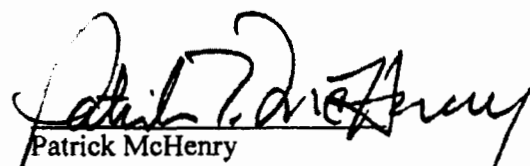
  
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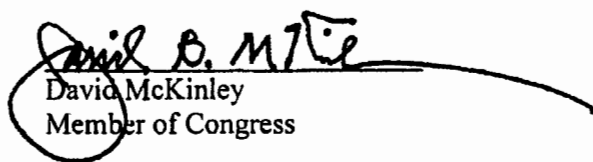
  
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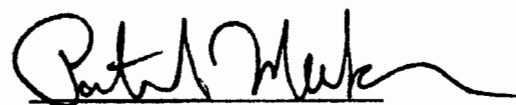
  
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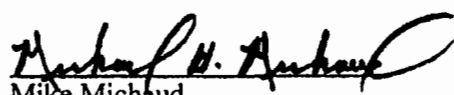
  
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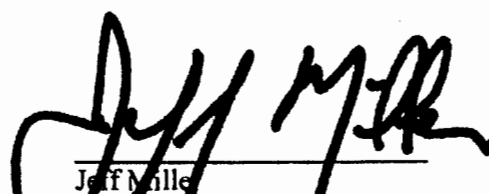
  
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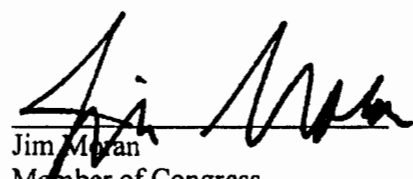
  
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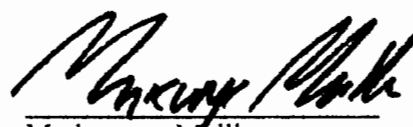
  
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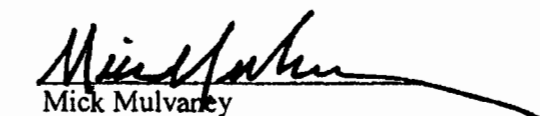
  
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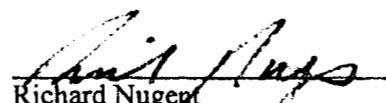
  
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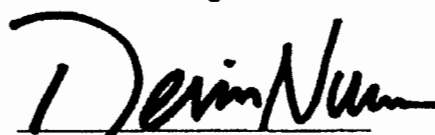
  
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Mick Mulvaney  
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Randy Neugebauer  
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Devin Nunes  
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Alan Nunnelee  
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Pete Olson  
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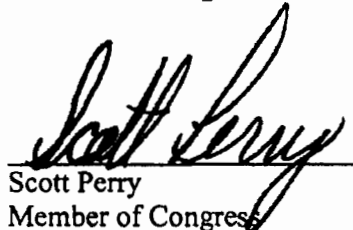
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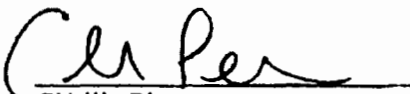
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Steve Pearce  
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Scott Perry  
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Chellie Pingree  
Member of Congress



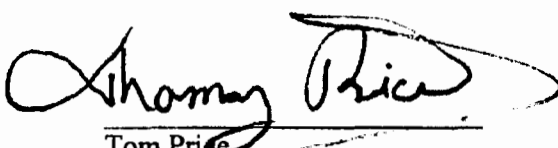
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Joe Pitts  
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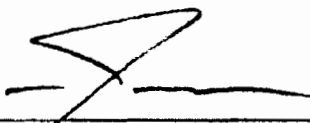
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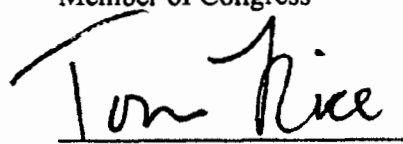
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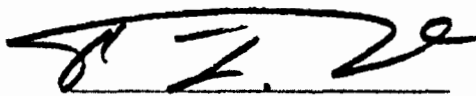
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Tom Reed  
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Tom Rice  
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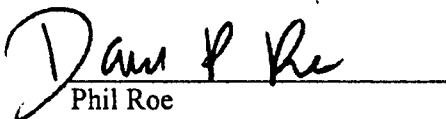


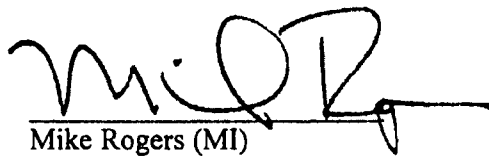
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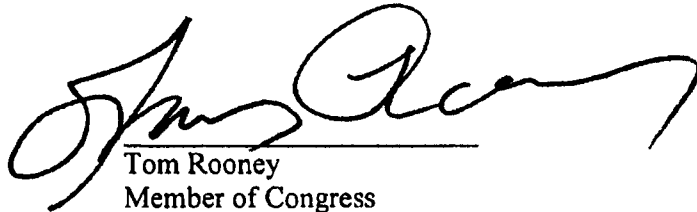
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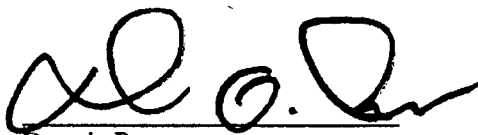


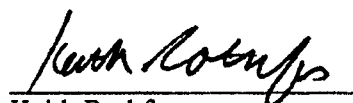
  
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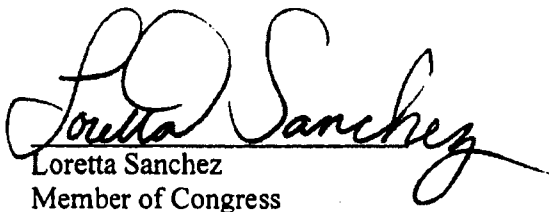
  
Mike Rogers (MI)  
Member of Congress

  
Dana Rohrabacher  
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Tom Rooney  
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Dennis Ross  
Member of Congress


  
Keith Rothfus  
Member of Congress


  
Loretta Sanchez  
Member of Congress

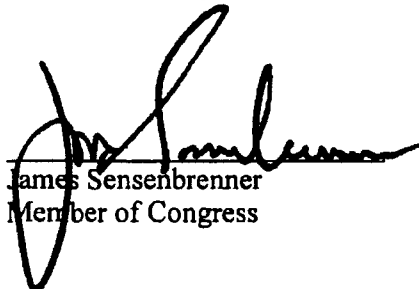
  
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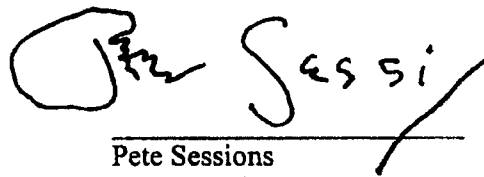
  
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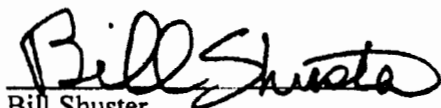
  
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Bobby Scott  
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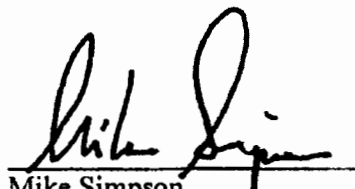
  
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James Sensenbrenner  
Member of Congress

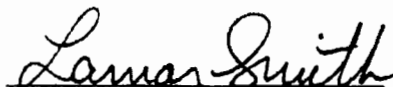
  
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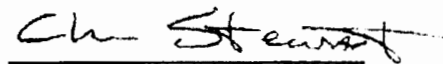
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Mike Simpson  
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Lamar Smith  
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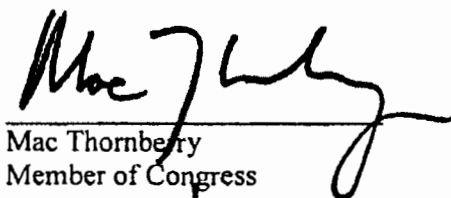
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Bennie Thompson  
Member of Congress



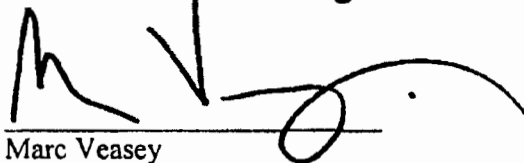
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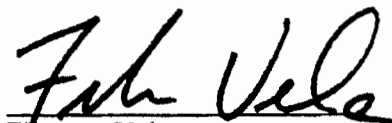
Mac Thornberry  
Member of Congress



David Valadao  
Member of Congress



Marc Veasey  
Member of Congress



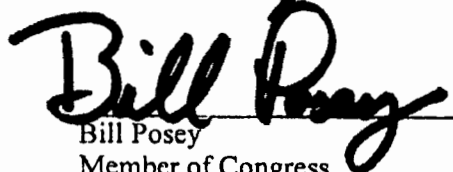
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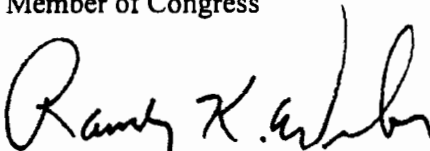
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Greg Walden  
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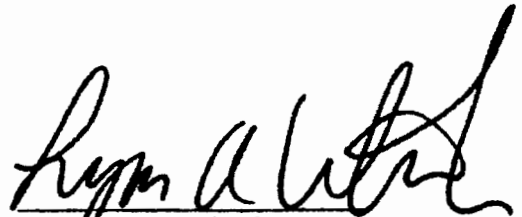



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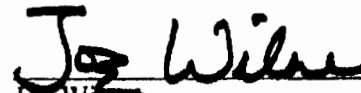


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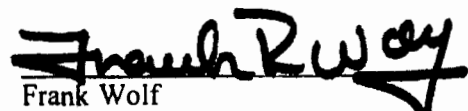
  
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Lynn Westmoreland  
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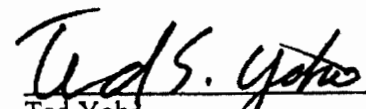
  
Roger Williams  
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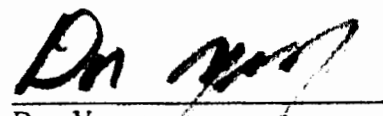
  
Joe Wilson  
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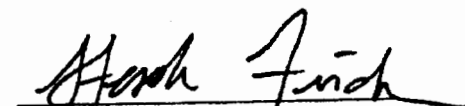
  
Frank Wolf  
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Rob Woodall  
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Ted Yoho  
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Don Young  
Member of Congress

  
Rodney P. Frelinghuysen  
Member of Congress

  
Stephen Fincher  
Member of Congress

  
Mike Kelly  
Member of Congress

  
Chris Smith  
Member of Congress

\_\_\_\_\_  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 24 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter dated October 30, 2013, to U.S. Environmental Protection Agency Administrator Gina McCarthy regarding the 2014 volume requirements under the Renewable Fuel Standard (RFS) program. The Administrator has asked me to respond to you on her behalf.

On November 29, 2013, the EPA published in the *Federal Register* a proposed rule that would establish the 2014 RFS volume standards. In developing the proposed volumes, the EPA used the most recent data available and took into consideration multiple factors. Our analysis included an evaluation of both the expected availability of qualifying renewable fuels as well as factors that, in some cases, limit supplying those fuels to the vehicles and equipment that can consume them. On the basis of our analysis, we proposed to reduce the required volumes from statutory levels for 2014 for cellulosic biofuel, advanced biofuel, and total renewable fuel. We proposed to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013, but we have requested comment on whether to raise the biomass-based diesel volume requirement.

I want to emphasize that this is a proposal, and that the EPA has requested comment on many aspects of the proposed rule, including the methodology for determining volumes. The EPA also expects to receive additional data before finalizing the rule. We will take your input under consideration as we, in conjunction with the U.S. Department of Agriculture and the U.S. Department of Energy, work towards finalizing this rule. Your letter has been placed in the rulemaking docket.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Janet G. McCabe", is written over a horizontal line.

Janet G. McCabe  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

May 1, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

The Honorable John M. McHugh  
Secretary  
Department of the Army  
The Pentagon, Room 3E700  
Washington, D.C. 20310

Dear Administrator McCarthy and Secretary McHugh:

We write to express our serious concerns with the proposed rule re-defining the scope of federal power under the Clean Water Act (CWA) and ask you to return this rule to your Agencies in order to address the legal, economic, and scientific deficiencies of the proposal.

On March 25, 2014, the Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) released a proposed rule that would assert CWA jurisdiction over nearly all areas with any hydrologic connection to downstream navigable waters, including man-made conveyances such as ditches. Contrary to your agencies' claims, this would directly contradict prior U.S. Supreme Court decisions, which imposed limits on the extent of federal CWA authority. Although your agencies have maintained that the rule is narrow and clarifies CWA jurisdiction, it in fact aggressively expands federal authority under the CWA while bypassing Congress and creating unnecessary ambiguity. Moreover, the rule is based on incomplete scientific and economic analyses.

The rule is flawed in a number of ways. The most problematic of these flaws concerns the significant expansion of areas defined as "waters of the U.S." by effectively removing the word "navigable" from the definition of the CWA. Based on a legally and scientifically unsound view of the "significant nexus" concept espoused by Justice Kennedy, the rule would place features such as ditches, ephemeral drainages, ponds (natural or man-made), prairie potholes, seeps, flood plains, and other occasionally or seasonally wet areas under federal control.

Additionally, rather than providing clarity and making identifying covered waters "less complicated and more efficient," the rule instead creates more confusion and will inevitably cause unnecessary litigation. For example, the rule heavily relies on undefined or vague concepts such as "riparian areas," "landscape unit," "floodplain," "ordinary high water mark" as determined by the agencies' "best professional judgment" and "aggregation." Even more egregious, the rule throws into confusion extensive state regulation of point sources under various CWA programs.

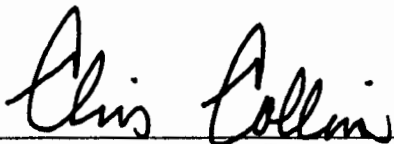
In early December of 2013, your agencies released a joint analysis stating that this rule would subject an additional three percent of U.S. waters and wetlands to CWA jurisdiction and that the rule would create an economic benefit of at least \$100 million annually. This calculation is seriously flawed. In this analysis, the EPA evaluated the FY 2009-2010 requests for jurisdictional determinations – a period of time that was the most economically depressed in

nearly a century. This period, for example, saw extremely low construction activity and should not have been used as a baseline to estimate the incremental acreage impacted by this rule. In addition, the derivation of the three percent increase calculation did not take into account the landowners who – often at no fault of their own – do not seek a jurisdictional determination, but rather later learn from your agencies that their property is subject to the CWA. These errors alone, which are just two of many in EPA's assumptions and methodology, call into question the veracity of any of the conclusions of the economic analysis.

Compounding both the ambiguity of the rule and the highly questionable economic analysis, the scientific report – which the agencies point to as the foundation of this rule – has been neither peer-reviewed nor finalized. The EPA's draft study, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," was sent to the EPA's Science Advisory Board to begin review on the same day the rule was sent to OMB for interagency review. The science should always come before a rulemaking, especially in this instance where the scientific and legal concepts are inextricably linked.

For all these reasons, we ask that this rule be withdrawn and returned to your agencies. This rule has been built on an incomplete scientific study and a flawed economic analysis. We therefore ask you to formally return this rule to your agencies.

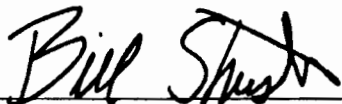
Sincerely,



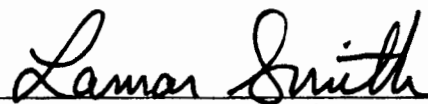
CHRIS COLLINS  
Member of Congress



KURT SCHRADER  
Member of Congress



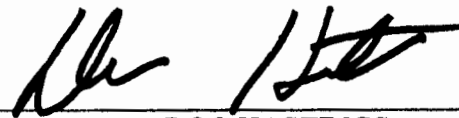
BILL SHUSTER  
Chairman  
House Committee on  
Transportation and Infrastructure



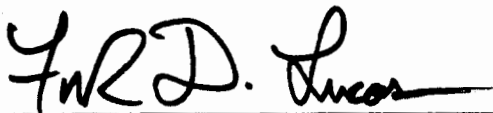
LAMAR SMITH  
Chairman  
House Committee on  
Science, Space, and Technology



FRED UPTON  
Chairman  
House Committee on  
Energy and Commerce



DOC HASTINGS  
Chairman  
House Committee on  
Natural Resources



FRANK LUCAS  
Chairman  
House Committee on Agriculture



COLLIN PETERSON  
Ranking Member  
House Committee on Agriculture

E. Whitefield  
Ken Calvert

Ronnie Schmitt

Jim Walker

Steve King

J. T. Smith

Dr. Young

Dan Brown

John Koster

Fah Ucla

Bill By M.C.

Ron E. Foster

Lee Terry  
James Baker

Adrian Smith

John G. Danahy

John Bannor

Walter B. Jones

Mike Simpson

~~Charles B. Wheeler~~

Bill Owens

Tom Sullivan

Jim Sundeau WI-05

Robert J. Wither VA-01

Rat Tiler

Cynthia P. Lemmings

Jeff Pinner

Bob Pinner

Tim Hurling

Marsha Blackburn

Ken Yoder

Julie Wink

Odd Roberts

Paul Pinner

Mark V. Amato

Van H. Pinner

Melvin P. Pinner

Joe Baratta

Mike Karenthal

John Pinner

Gene Pinner

Jim Biedenstein

Long Adams

Tom Pinner

Chuck Fleish

Paul Scott

R. Pinner

Thomas Massie



Brett Guthrie

Jan Jan M.C.

Ch Stewart

Ann Sch

Larry Buehner

Tom Figue

Kay Stanger

Bill Fenn

16 Mar 1981

Hyd Fund

D. Bunker

Bill Laidy

Gregg Harper

Glen GT Thompson

Archie Ryan (M-03)

La Van

Jayong

Vicky Hartzler

Lynn Jenkins

Ken Cunn

Steve Womack

Roger Williams

Jaime Herrera Beutler

Terri Sewell

Tin L.P.L. (AR-02)

Brook R. Wansley

Ar. P. O.

Don J. H. H.

Alan J. H.

Paul J. H.

Dillon Song

Susan W. Brooks

Mark Kelly

J. John

Bill Johnson

Andreas

Ar. P. O.

Bob Huitinga

Miss Huitinga

Ar. H.

Ar. H.

Andy Byrne

Ar. H.

Ken H. H.

Raul R. Labrador

Ar. H.

Ar. H.

Will H.

P. Woodall

CPH

Diane Black

Mo Brooks

B

Kerry Haultoff

Grant Jones

Ch Bonamy

Nike Stephens

John Culberson

Er. M. Bilinski

Luke Messer

Markwayne Mullin

Pat Stepien

Lon B. Argue

Ch. Jones

Hunt

Sam Johnson

Mark Stepien

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CE W. Ditt

Lance Krystos

J. H. Jones

Tom Marino

Tom Rice

John H. H. 11-34

John A. 11-03

Robert Pittenger

Pete Olson

Pat H.

H. Viny

S. Holby

Rene J. H.

Kevin M. Cant

Virginia xxx

Mar 76

Kevin E. H.

Erik Paulsen

Joe H.

John E.

Tom Marino

Darin N.

Michael A. Armon

K. M. H.

J. H.

Steve Chabot

Ruben H.

Alex Walden

Howard Cobb

Ja Borton

Frank R. Wemy

R. Pearson

Krug Bertrich

Carly McHorn-Rodger

Paul Cook

Shana R. Lettice

Josh Rahall

Joe Wilson

Scott Smith

Michael R. Jones

Augusta M. H.

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Patrick J. McHenry

Howard C. Bud'N'Con

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Member	Party	District
Don Young	R	AK-AL
Bradley Byrne	R	AL-1
Martha Roby	R	AL-2
Mike Rogers	R	AL-3
Robert Aderholt	R	AL-4
Mo Brooks	R	AL-5
Spencer Bachus	R	AL-6
Terri Sewell	D	AL-7
Rick Crawford	R	AR-1
Tim Griffin	R	AR-2
Steve Womack	R	AR-3
Tom Cotton	R	AR-4
Paul Gosar	R	AZ-4
Matt Salmon	R	AZ-5
David Schweikert	R	AZ-6
Trent Franks	R	AZ-8
Doug LaMalfa	R	CA-1
Jeff Denham	R	CA-10
Jim Costa	D	CA-16
David Valadao	R	CA-21
Devin Nunes	R	CA-22
Kevin McCarthy	R	CA-22
Howard "Buck" McKeon	R	CA-25
Gary Miller	R	CA-31
Tom McClintock	R	CA-4
Ken Calvert	R	CA-42
Dana Rohrabacher	R	CA-48
Darrell Issa	R	CA-49
Paul Cook	R	CA-8
Scott Tipton	R	CO-3
Cory Gardner	R	CO-4
Doug Lamborn	R	CO-5
Mike Coffman	R	CO-6
Jeff Miller	R	FL-1
Rich Nugent	R	FL-11
Gus Bilirakis	R	FL-12
Tom Rooney	R	FL-17
Steve Southerland	R	FL-2
Mario Diaz-Balart	R	FL-25
Ileana Ros-Lehtinen	R	FL-27
Ted Yoho	R	FL-3
Ron DeSantis	R	FL-6
John Mica	R	FL-7
Jack Kingston	R	GA-1
Paul Broun	R	GA-10
Phil Gingrey	R	GA-11

John Barrow	D	GA-12
David Scott	D	GA-13
Tom Graves	R	GA-14
Sanford Bishop	D	GA-2
Lynn Westmoreland	R	GA-3
Tom Price	R	GA-6
Rob Woodall	R	GA-7
Austin Scott	R	GA-8
Doug Collins	R	GA-9
Tom Latham	R	IA-3
Steve King	R	IA-5
Raul Labrador	R	ID-1
Michael Simpson	R	ID-2
William Enyart	D	IL-12
Rodney Davis	R	IL-13
Randy Hultgren	R	IL-14
John Shimkus	R	IL-15
Adam Kinzinger	R	IL-16
Aaron Schock	R	IL-18
Peter Roskam	R	IL-6
Jackie Walorski	R	IN-2
Marlin Stutzman	R	IN-3
Todd Rokita	R	IN-4
Susan Brooks	R	IN-5
Luke Messer	R	IN-6
Larry Bucshon	R	IN-8
Todd Young	R	IN-9
Tim Huelskamp	R	KS-1
Lynn Jenkins	R	KS-2
Kevin Yoder	R	KS-3
Mike Pompeo	R	KS-4
Ed Whitfield	R	KY-1
Brett Guthrie	R	KY-2
Thomas Massie	R	KY-4
Hal Rogers	R	KY-5
Andy Barr	R	KY-6
Cedric Richmond	D	LA-2
Charles Boustany	R	LA-3
John Fleming	R	LA-4
Vance McAllister	R	LA-5
Bill Cassidy	R	LA-6
Andy Harris	R	MD-1
Dan Benishek	R	MI-1
Candice Miller	R	MI-10
Kerry Bentivolio	R	MI-11
Bill Huizenga	R	MI-2
Justin Amash	R	MI-3

Dave Camp	R	MI-4
Fred Upton	R	MI-6
Tim Walberg	R	MI-7
Mike Rogers	R	MI-8
John Kline	R	MN-2
Erik Paulsen	R	MN-3
Michele Bachmann	R	MN-6
Collin Peterson	D	MN-7
Ann Wagner	R	MO-2
Blaine Luetkemeyer	R	MO-3
Vicky Hartzler	R	MO-4
Sam Graves	R	MO-6
Billy Long	R	MO-7
Jason Smith	R	MO-8
Alan Nunnelee	R	MS-1
Bennie G. Thompson	D	MS-2
Gregg Harper	R	MS-3
Steven Palazzo	R	MS-4
Patrick McHenry	R	NC-10
Mark Meadows	R	NC-11
George Holding	R	NC-13
Renee Ellmers	R	NC-2
Walter Jones	R	NC-3
Virginia Foxx	R	NC-5
Howard Coble	R	NC-6
Mike McIntyre	D	NC-7
Richard Hudson	R	NC-8
Robert Pittenger	R	NC-9
Kevin Cramer	R	ND-AL
Lee Terry	R	NE-2
Adrian Smith	R	NE-3
Scott Garrett	R	NJ-5
Steve Pearce	R	NM-2
Mark Amodei	R	NV-2
Joe Heck	R	NV-3
Michael Grimm	R	NY-11
Chris Gibson	R	NY-19
Peter King	R	NY-2
Bill Owens	D	NY-21
Richard Hanna	R	NY-22
Tom Reed	R	NY-23
Chris Collins	R	NY-27
Steve Chabot	R	OH-1
Michael Turner	R	OH-10
Patrick Tiberi	R	OH-12
David Joyce	R	OH-14
Steve Stivers	R	OH-15

Jim Renacci	R	OH-16
Brad Wenstrup	R	OH-2
Jim Jordan	R	OH-4
Robert Latta	R	OH-5
Bill Johnson	R	OH-6
Bob Gibbs	R	OH-7
Jim Bridenstine	R	OK-1
Markwayne Mullin	R	OK-2
Frank Lucas	R	OK-3
James Lankford	R	OK-5
Greg Walden	R	OR-2
Kurt Schrader	D	OR-5
Tom Marino	R	PA-10
Lou Barletta	R	PA-11
Keith Rothfus	R	PA-12
Charlie Dent	R	PA-15
Joe Pitts	R	PA-16
Tim Murphy	R	PA-18
Mike Kelly	R	PA-3
Scott Perry	R	PA-4
Glenn 'GT' Thompson	R	PA-5
Jim Gerlach	R	PA-6
Patrick Meehan	R	PA-7
Mike Fitzpatrick	R	PA-8
Bill Shuster	R	PA-9
Mark Sanford	R	SC-1
Joe Wilson	R	SC-2
Jeff Duncan	R	SC-3
Mick Mulvaney	R	SC-5
Tom Rice	R	SC-7
Kristi Noem	R	SD-AL
Phil Roe	R	TN-1
John J. Duncan, Jr.	R	TN-2
Chuck Fleischmann	R	TN-3
Scott DesJarlais	R	TN-4
Diane Black	R	TN-6
Marsha Blackburn	R	TN-7
Stephen Fincher	R	TN-8
Louie Gohmert	R	TX-1
Michael McCaul	R	TX-10
K. Michael Conaway	R	TX-11
Kay Granger	R	TX-12
Mac Thornberry	R	TX-13
Randy Weber	R	TX-14
Ruben Hinojosa	D	TX-15
Bill Flores	R	TX-17
Randy Neugebauer	R	TX-19

Ted Poe	R	TX-2
Lamar Smith	R	TX-21
Pete Olson	R	TX-22
Pete Gallego	D	TX-23
Kenny Marchant	R	TX-24
Roger Williams	R	TX-25
Michael Burgess	R	TX-26
Blake Farenthold	R	TX-27
Henry Cuellar	D	TX-28
Sam Johnson	R	TX-3
John Carter	R	TX-31
Pete Sessions	R	TX-32
Marc Veasey	D	TX-33
Filemon Vela	D	TX-34
Steve Stockman	R	TX-36
Ralph Hall	R	TX-4
Jeb Hensarling	R	TX-5
Joe Barton	R	TX-6
John Culberson	R	TX-7
Kevin Brady	R	TX-8
Rob Bishop	R	UT-1
Chris Stewart	R	UT-2
Jason Chaffetz	R	UT-3
Jim Matheson	D	UT-4
Robert Wittman	R	VA-1
Frank Wolf	R	VA-10
Scott Rigell	R	VA-2
J. Randy Forbes	R	VA-4
Robert Hurt	R	VA-5
Bob Goodlatte	R	VA-6
Morgan Griffith	R	VA-9
Jaime Herrera Beutler	R	WA-3
Doc Hastings	R	WA-4
Cathy McMorris Rodgers	R	WA-5
Dave Reichert	R	WA-8
Paul Ryan	R	WI-3
Jim Sensenbrenner	R	WI-5
Tom Petri	R	WI-6
Sean Duffy	R	WI-7
Reid Ribble	R	WI-8
David McKinley	R	WV-1
Shelly Moore Capito	R	WV-2
Nick Rahall	D	WV-3
Cynthia Lummis	R	WY-AL





JUN 09 2014



The Honorable Chris Collins  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Collins:

Thank you for your May 1, 2014, letter cosigned by 230 other Members of the House of Representatives to the Department of the Army and the U.S. Environmental Protection Agency regarding the agencies' proposed rulemaking to clarify the term "waters of the United States." We are responding on behalf of the Secretary of the Army John M. McHugh and EPA Administrator Gina McCarthy. We understand your concerns and look forward to working with you and with the American public to respond to questions and comments about the agencies' joint rulemaking.

Your letter raises specific questions about the agencies' proposed rule clarifying the regulatory definition of "waters of the United States." As your letter effectively recognizes, this rule is important because it establishes the geographic scope for all Clean Water Act (CWA) programs. The agencies' primary goal in developing the proposed rule is to clarify protection under the CWA for streams and wetlands that form the foundation of the nation's water resources. We believe the proposed rule is fully consistent with the CWA, provides needed clarity, and is based on the best-available science.

We want to emphasize that the rule currently undergoing public review is a proposal. Consistent with the provisions of the Administrative Procedure Act, we will carefully evaluate all public comments received on the proposed rule, including yours, and make necessary changes before the rule is made final. This transparent public process will help to assure the final rule provides the clarity, certainty, and consistency the public demands and to make all provisions of the final rule fully consistent with the law and science, including decisions of the Supreme Court.

It is also important to recognize that the proposed rule would not expand the historic scope of the CWA, nor cover any types of waters not previously subject to the Act in the 1970s, 1980s and 1990s. We agree that Supreme Court decisions since 2001 have resulted in reducing the scope of waters that may be protected and we have worked hard to reflect these changes in the proposed rule. The result of this rulemaking will be to reduce the geographic scope of waters protected by the CWA compared to the rule it replaces. In addition, the CWA defines "navigable waters" as the waters of the United States. The courts, including the Supreme Court, have consistently found the jurisdiction of the CWA extends beyond waters deemed to be navigable in fact. In *United States v. Riverside Bayview*, 474 U.S. 121 (1985), for example, the Supreme Court ruled unanimously that the government has the power to control intrastate wetlands as waters of the United States.

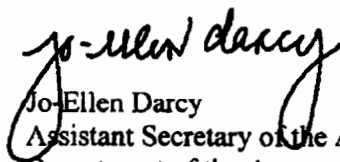
It is also important to note that the proposed rule includes definitions for terms such as "riparian area" and "floodplain," and does not regulate uplands in any riparian area or floodplain. The proposed rule also specifically solicits comment on such terms and whether the rule text should provide better specificity with regard to the application of the terms in order to improve clarity and certainty. Additionally, the proposed rule specifically states that certain ditches, artificially irrigated areas that would revert to uplands if irrigation were ceased, and artificial lakes and ponds created in uplands are excluded from CWA jurisdiction. It also provides that water-filled depressions created as a result of construction activity, pits excavated in uplands for fill, and treatment ponds or lagoons will not be subject to CWA jurisdiction.

The economic analysis that supports the proposed rule concludes that the overall benefits of the proposed rule would exceed its costs. This analysis, which is publicly available, was based on the best-available information at the time the rule was proposed regarding the rule's effect on all CWA programs. We welcome public comments on how the analysis could be improved to ensure it effectively evaluates the effects of the proposed rule.

Finally, your letter expresses concerns regarding how the agencies plan to use the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence." This report presents a review and synthesis of more than 1,000 pieces of peer reviewed scientific literature, and is currently undergoing independent peer review by the EPA's Science Advisory Board (SAB). As the agencies have emphasized, the proposed rule will not be finalized until the SAB review is complete and the EPA develops a final version of the scientific assessment based on SAB and public input.

Thank you again for your letter. An identical copy of this response has been sent to the other signers of your letter. We look forward to the ongoing input from you and your constituents during the public comment period on the proposed rule. If you have any questions, your staff may contact Mr. Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at [charles.r.smith567.civ@mail.mil](mailto:charles.r.smith567.civ@mail.mil) or (703) 693-3655, or Mr. Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,



Jo-Ellen Darcy  
Assistant Secretary of the Army (Civil Works)  
Department of the Army



Nancy K. Stoner  
Acting Assistant Administrator  
U.S. Environmental Protection Agency

AL-15-001-2225

Congress of the United States  
Washington, DC 20515

July 31, 2015

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

The Honorable Dr. Ernest Moniz  
Secretary  
U.S. Department of Energy  
1000 Independence Avenue SW  
Washington, D.C. 20585

The Honorable Tom Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Washington, D.C. 20250

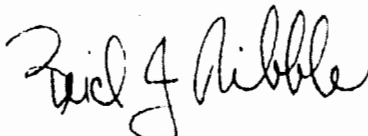
Dear Administrator McCarthy, Secretary Moniz, and Secretary Vilsack:

We write to support biomass energy as a sustainable, responsible, renewable, and economically significant energy source. Federal policies across all departments and agencies must remove any uncertainties and contradictions through a clear, unambiguous message that forest bioenergy is part of the nation's energy future.

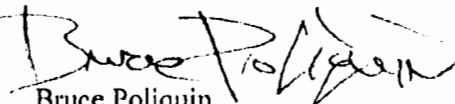
Many states are relying on renewable biomass to meet their energy goals, and we support renewable biomass to create jobs and economic growth while meeting our nation's energy needs. A comprehensive science, technical, and legal administrative record supports a clear and simple policy establishing the benefits of energy from forest biomass. Federal policies that add unnecessary costs and complexity will discourage rather than encourage investment in working forests, harvesting operations, bioenergy, wood products, and paper manufacturing. Unclear or contradictory signals from federal agencies could discourage biomass utilization as an energy solution.

The carbon neutrality of forest biomass has been recognized repeatedly by numerous studies, agencies, institutions, legislation, and rules around the world, and there has been no dispute about the carbon neutrality of biomass derived from residuals of forest products manufacturing and agriculture. Our constituents employed in the biomass supply chain deserve a federal policy that recognizes the clear benefits of forest bioenergy. We urge you to ensure that federal policies are consistent and reflect the carbon neutrality of these types of bioenergy.

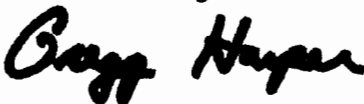
Sincerely,



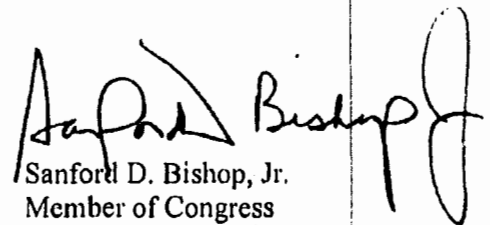
Reid J. Ribble  
Member of Congress



Bruce Poliquin  
Member of Congress



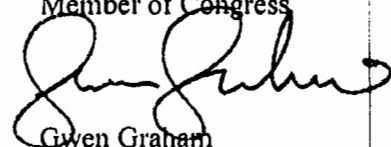
Gregg Harper  
Member of Congress



Sanford D. Bishop, Jr.  
Member of Congress



Kurt Schrader  
Member of Congress



Gwen Graham  
Member of Congress

*Corrine Brown*

Corrine Brown  
Member of Congress

*G.K. Butterfield*

G.K. Butterfield  
Member of Congress

*Ken Calvert*

Ken Calvert  
Member of Congress

*Steve Cohen*

Steve Cohen  
Member of Congress

*Tom Cole*

Tom Cole  
Member of Congress

*Joe Courtney*

Joe Courtney  
Member of Congress

*Ander Crenshaw*

Ander Crenshaw  
Member of Congress

*Peter A. DeFazio*

Peter A. DeFazio  
Member of Congress

*John J. Duncan, Jr.*

John J. Duncan, Jr.  
Member of Congress

*Stephen Lee Fincher*

Stephen Lee Fincher  
Member of Congress

*John Fleming*

John Fleming  
Member of Congress

*J. Randy Forbes*

J. Randy Forbes  
Member of Congress

*Virginia Foxx*

Virginia Foxx  
Member of Congress

*Trent Franks*

Trent Franks  
Member of Congress

*John Garamendi*

John Garamendi  
Member of Congress

*Louie Gohmert*

Louie Gohmert  
Member of Congress

*Bob Goodlatte*

Bob Goodlatte  
Member of Congress

*Tom Graves*

Tom Graves  
Member of Congress

*Brett Guthrie*

Brett Guthrie  
Member of Congress

*Walter B. Jones*

Walter B. Jones  
Member of Congress

*Leonard Lance*

Leonard Lance  
Member of Congress

*Rick Larsen*

Rick Larsen  
Member of Congress

*Robert E. Latta*

Robert E. Latta  
Member of Congress

*Tom McClintock*

Tom McClintock  
Member of Congress

*Mick Mulvaney*

Mick Mulvaney  
Member of Congress

*Kristi Noem*

Kristi Noem  
Member of Congress

*Richard M. Nolan*

Richard M. Nolan  
Member of Congress

*Collin C. Peterson*

Collin C. Peterson  
Member of Congress

*Chellie Pingree*

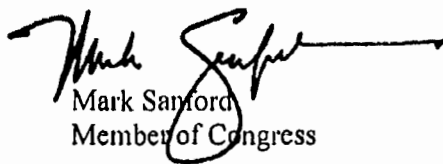
Chellie Pingree  
Member of Congress

*Hal Rogers*

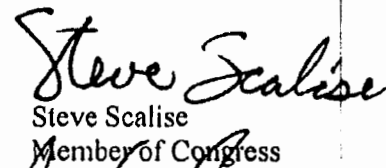
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Member of Congress



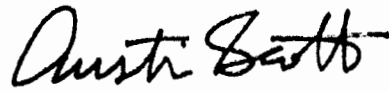
Peter J. Roskam  
Member of Congress



Mark Sanford  
Member of Congress



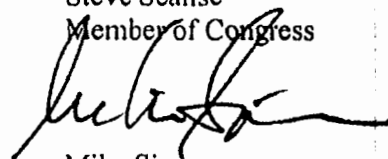
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Member of Congress



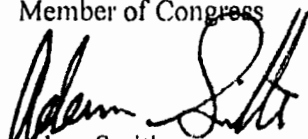
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Member of Congress



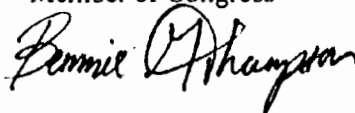
John Shimkus  
Member of Congress



Mike Simpson  
Member of Congress



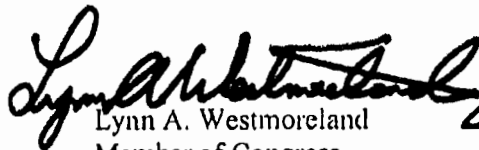
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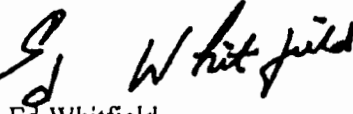
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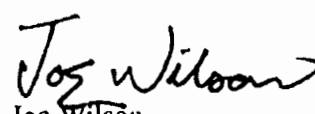
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Lynn A. Westmoreland  
Member of Congress



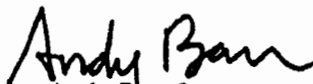
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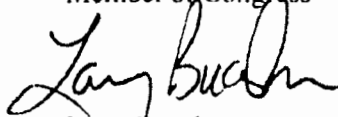
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Member of Congress





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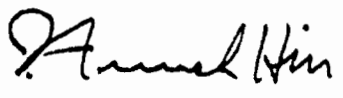
  
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H. Morgan Griffith  
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Ron Kind  
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Ami Bera  
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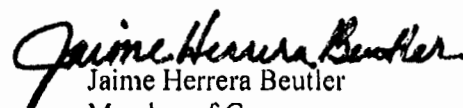
  
Charles W. Boustany, Jr.  
Member of Congress

  
Cheri Bustos  
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Jim Costa  
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Jeff Denham  
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Bill Foster  
Member of Congress


  
Jaime Herrera Beutler  
Member of Congress

  
David W. Jolly  
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Trent Kelly  
Member of Congress

  
Adam Kinzinger  
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Earl Blumenauer  
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Mo Brooks  
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Chris Collins  
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Rick Crawford  
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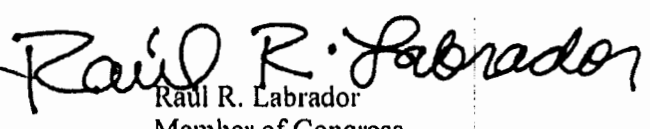
  
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Chris Gibson  
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Jody B. Hice  
Member of Congress

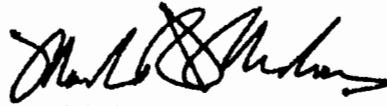
  
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Derek Kilmer  
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Raul R. Labrador  
Member of Congress



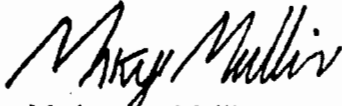
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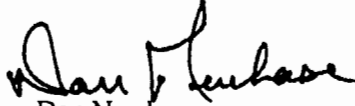
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Member of Congress



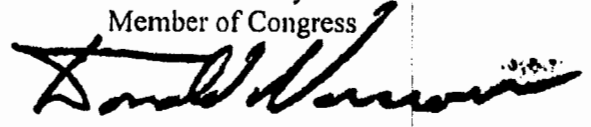
Alex X. Mooney  
Member of Congress



Markwayne Mullin  
Member of Congress



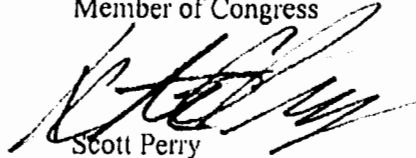
Dan Newhouse  
Member of Congress



Donald Norcross  
Member of Congress



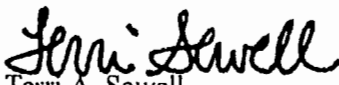
Ed Perlmutter  
Member of Congress



Scott Perry  
Member of Congress



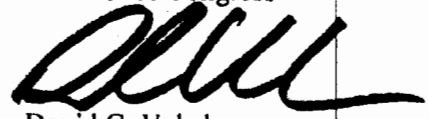
Dave Reichert  
Member of Congress



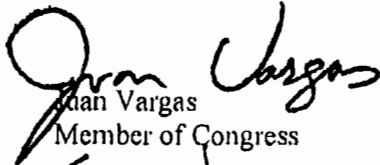
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Member of Congress



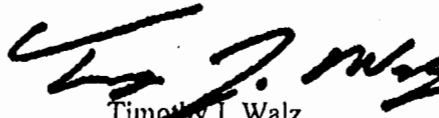
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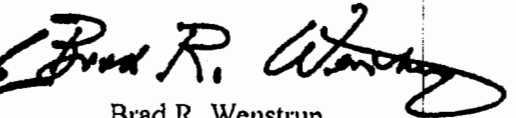
David G. Valadao  
Member of Congress



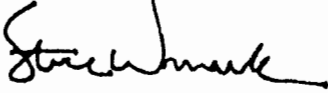
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Member of Congress



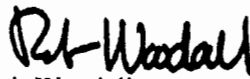
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Member of Congress



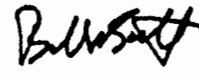
Brad R. Wenstrup  
Member of Congress



Steve Womack  
Member of Congress



Rob Woodall  
Member of Congress



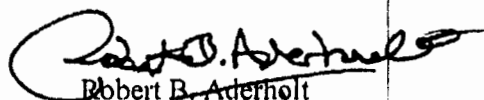
Robert C. "Bobby" Scott  
Member of Congress



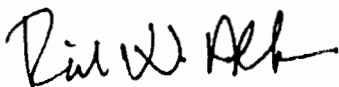
Ralph Abraham, M.D.  
Member of Congress



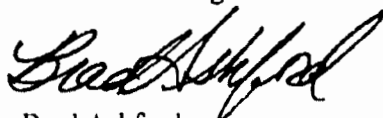
Alma S. Adams  
Member of Congress



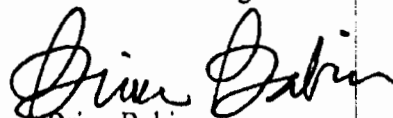
Robert B. Aderholt  
Member of Congress



Rick W. Allen  
Member of Congress



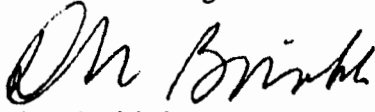
Brad Ashford  
Member of Congress



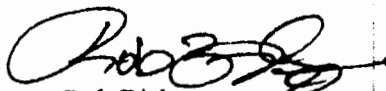
Brian Babin  
Member of Congress



Lou Barletta  
Member of Congress



Dan Benishek  
Member of Congress



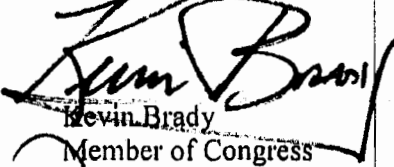
Rob Bishop  
Member of Congress



Rod Blum  
Member of Congress



Suzanne Bonamici  
Member of Congress



Kevin Brady  
Member of Congress



Bradley Byrne  
Member of Congress



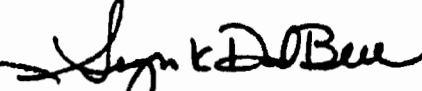
Earl L. "Buddy" Carter  
Member of Congress



James E. Clyburn  
Member of Congress



Barbara Comstock  
Member of Congress



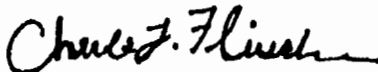
Suzan K. DelBene  
Member of Congress



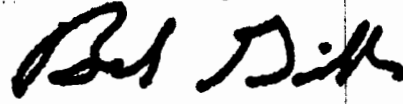
Scott DesJarlais  
Member of Congress



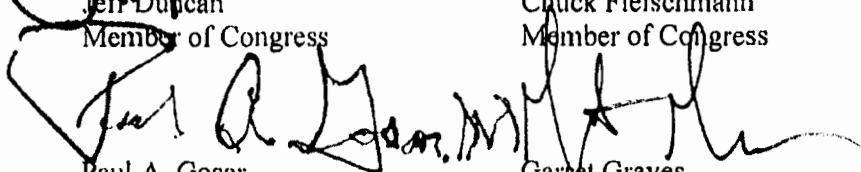
Jeff Duncan  
Member of Congress



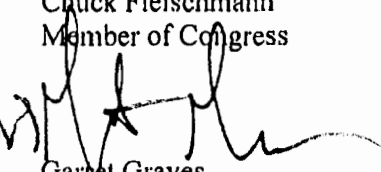
Chuck Fleischmann  
Member of Congress




Bob Gibbs  
Member of Congress



Paul A. Gosar  
Member of Congress



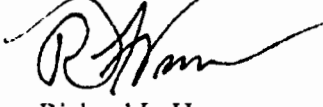
Garret Graves  
Member of Congress



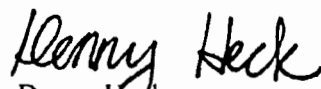
Glenn Grothman  
Member of Congress



Frank C. Guinta  
Member of Congress



Richard L. Hanna  
Member of Congress



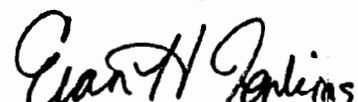
Denny Heck  
Member of Congress



Richard Hudson  
Member of Congress



Robert Hurt  
Member of Congress



Evan H. Jenkins  
Member of Congress





Ann Kirkpatrick  
Member of Congress



Ann McLane Kuster  
Member of Congress



Doug LaMalfa  
Member of Congress



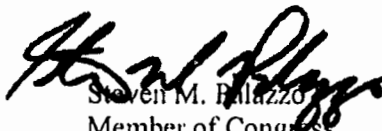
Barry Loudermilk  
Member of Congress



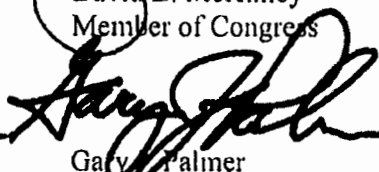
David B. McKinley  
Member of Congress



Cathy McMorris Rodgers  
Member of Congress



Steven M. Palazzo  
Member of Congress



Gary Palmer  
Member of Congress



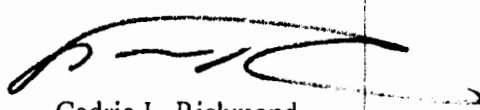
Mark Pocan  
Member of Congress



John Ratcliffe  
Member of Congress



Tom Rice  
Member of Congress



Cedric L. Richmond  
Member of Congress



Martha Roby  
Member of Congress



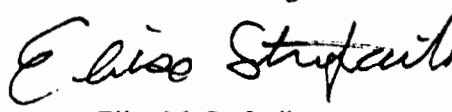
Mike Rogers  
Member of Congress



David Rouzer  
Member of Congress



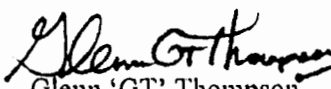
David Scott  
Member of Congress



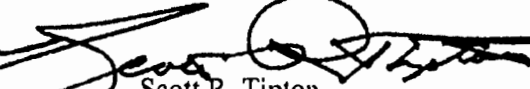
Elise M. Stefanik  
Member of Congress



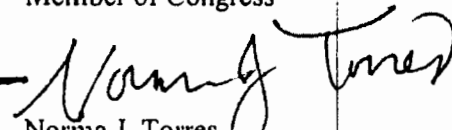
Eric Swalwell  
Member of Congress



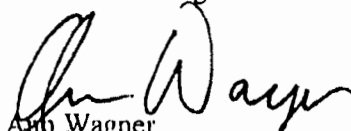
Glenn 'GT' Thompson  
Member of Congress



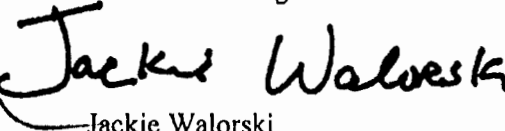
Scott R. Tipton  
Member of Congress



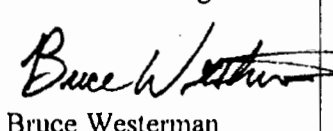
Norma J. Torres  
Member of Congress



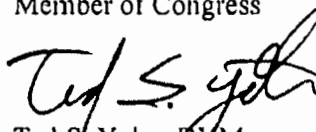
Ann Wagner  
Member of Congress



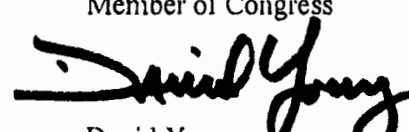
Jackie Walorski  
Member of Congress



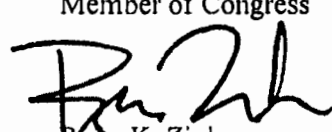
Bruce Westerman  
Member of Congress



Ted S. Yoho, DVM  
Member of Congress



David Young  
Member of Congress



Ryan K. Zinke  
Member of Congress



December 23, 2015

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your July 31, 2015, letter to U.S. Environmental Protection Agency Administrator Gina McCarthy, U.S. Department of Agriculture Secretary Thomas J. Vilsack, and U.S. Department of Energy Secretary Ernest Moniz, regarding the role of forest bioenergy in meeting our Nation's energy and climate goals. They have asked us to respond on their behalf.

The President's Climate Action Plan and All-of-the-Above Energy Strategy lay a foundation for a clean energy future and foster expansion of renewable energy, including biomass. At the same time, the President's Climate Action Plan highlights the critical role that America's forests play in addressing carbon pollution in the United States. Our agencies agree that production and use of biomass energy can be an integral part of regimes that promote conservation and responsible forest management. States also recognize the importance of forests, and many have been developing a variety of forest and land use management policies and programs that both address climate change and foster increased biomass utilization as part of their energy future.

Recent EPA regulatory action and scientific work on assessing biogenic carbon dioxide (CO<sub>2</sub>) emissions from stationary sources is part of this broad climate strategy. In August 2015, EPA released the final Clean Power Plan (CPP), which describes the ways in which the use of biomass may be a component of state plans. For example, in the CPP, EPA generally acknowledges the benefits of waste-derived biogenic feedstocks and certain forest- and agriculture-derived industrial byproduct feedstocks and expects that these feedstocks would likely be approvable in a state plan. To support states and stakeholders in incorporating bioenergy in their state plans, EPA plans to hold a public workshop in early 2016 for stakeholders to share their successes, experiences, and approaches to deploying biomass in ways that have been, and can be, carbon beneficial. In addition, EPA has also developed a revised *Framework for Assessing Biogenic Carbon Dioxide from Stationary Sources* that can assist states when considering the role of biomass in state plan submittals. The revised report takes into account the latest information from the scientific community and other stakeholders, including findings from EPA's Science Advisory Board (SAB) review of the first draft framework. EPA is continuing to refine its accounting work through a second round of targeted peer review with the SAB in 2015.<sup>1</sup>

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<sup>1</sup> The revised draft Framework and SAB peer review request memo can be found at: <http://epa.gov/climatechange/ghgemissions/biogenic-emissions.html>. Information regarding the SAB peer review process can be found at: [www.epa.gov/sab/](http://www.epa.gov/sab/).

USDA recognizes the important role forest management and biomass will play in both our energy and climate future. Increasing the demand for wood for energy results in more forest area, more forest investment, and potential greenhouse gas reductions. To increase forest stocks and improve forest health and management, we must develop incentives that keep working forestland forested and support forest restoration, reforestation, and afforestation. This is all the more critical, especially amid development pressures and increasing threats from insects, disease, and wildfire.

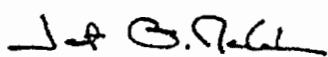
Under USDA's Wood to Energy Initiative, USDA has supported over 230 Wood Energy projects through nearly \$1 billion in grants, loans, and loan guarantees since 2009 through a host of programs, including the Renewable Energy for America Program and the Biomass Crop Assistance Program. USDA has established state-wide wood energy teams in 19 states that are helping deliver needed technical and financial assistance to expand those markets further.

DOE recognizes the importance of wood as a renewable energy source. DOE is leading efforts to develop and demonstrate technologies for producing cost-competitive advanced biofuels from non-food biomass resources, including forest and wood resources, algac, and waste streams. These efforts require rigorous scientific study and evaluation to understand the impacts of various biomass feedstocks, especially woody resources, to optimize the benefits of their use.

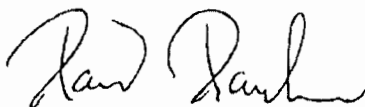
In the context of the President's Climate Action Plan and All-of-the-Above Energy Strategy, DOE, EPA, and USDA will work together to ensure that biomass energy plays a role in America's clean energy future. As stated in your letter, the American people deserve a Federal policy that recognizes the benefits of forest bioenergy. Together, our agencies are working carefully and consistently to quantify the benefits of using wood for energy.

Again, thank you for your letter. If you have further questions, please contact us or your staff may contact Ms. Patricia Haman in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806; Ms. Janine Benner, DOE's Deputy Assistant Secretary for House Affairs at (202) 586-5450; or Mr. Todd Batta, USDA's Assistant Secretary for Congressional Relations at (202) 720-6643.

Sincerely,



Janet G. McCabe  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection  
Agency



Dr. David T. Danielson  
Assistant Secretary  
Office of Energy Efficiency  
and Renewable Energy  
U.S. Department of Energy



Dr. Robert Johansson  
Chief Economist  
U.S. Department of Agriculture

**Congress of the United States**  
**Washington, DC 20515**

AL-15-001-4031

September 11, 2015

The Honorable Governor Jerry Brown  
State Capitol, Suite 1173  
Sacramento, CA 95814

John  
California  
141  
Sacramento

The Honorable Sarah "Sally" Jewell, Secretary  
United States Department of the Interior  
1849 C Street, NW, Room 6156  
Washington, D.C. 20240

The  
United  
140  
Washington

The Honorable Regina A. McCarthy, Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3000  
Washington, D.C. 20460

*No final  
response*

*Note in CMS per  
Denis Barum no  
response needed*

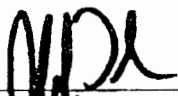
Dear Governor Brown, Secretaries Laird, Jewell and Pri

We write to thank you for providing a 60-day extension to October 30, 2015 to the comment period on the recently released Bay-Delta Conservation Plan (BDCP)/California "WaterFix" and the partially Recirculated Draft Environmental Impact Report and Supplemental Draft Environmental Impact Statement (RDEIR/SDEIS) and to urge that you provide an additional 60-day extension to December 29, 2015.

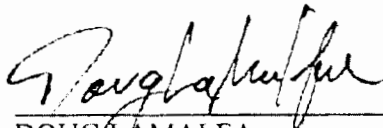
As you know, the RDEIR/SDEIS contains substantial changes from the initial public draft and amounts to nearly 8,000 pages of additional documentation. Given the size and complexity of the documents, particularly in light of the 40,000 pages associated with the original draft EIR/EIS which provides the context and foundation for this latest proposal, we believe the current public comment period is inadequate and an additional 60 days beyond the current review period is warranted.

Thank you for your consideration.

Sincerely,



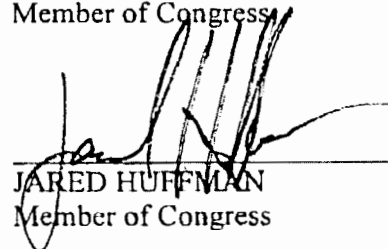
JEFF LEATHAM  
Member of Congress



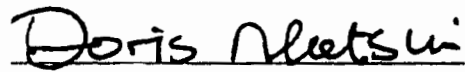

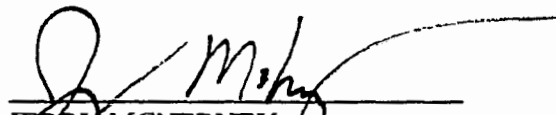

DOUG LAMALFA  
Member of Congress



JOHN GARAMENDI  
Member of Congress



JARED HUFFMAN  
Member of Congress

  
TOM MCCLINTOCK  
Member of Congress  
MIKE THOMPSON  
Member of Congress  
DORIS MATSUI  
Member of Congress  
AMI BERA  
Member of Congress  
JERRY MCNERNEY  
Member of Congress  
MARK DESAULNIER  
Member of Congress  
ERIC SWALWELL  
Member of Congress

**Congress of the United States**

Washington, DC 20515

AL-16-000-5392

March 4, 2016

Mr. Robert McNally  
Director, Biopesticide and Pollution Prevention Division  
Office of Pesticide Programs  
U.S. Environmental Protection Agency  
Mail Code 5711P  
1200 Pennsylvania Ave. NW  
Washington, D.C. 20460

Dear Mr. McNally:

California growers face numerous pest issues. As stewards of their land, they often use integrated pest management (IPM) to control pests in the manner that makes the most sense from an efficacy, economic and environmental standpoint. We are hearing concerns from local growers about the U.S. Environmental Protection Agency's (EPA) proposal to revoke the residue tolerance on BLAD (Banda de Lupinus albus doce), a naturally derived biological fungicide. This product is quickly becoming an important tool in the IPM toolbox because it does not have any resistance issues.

One of the strongest critics of the EPA's proposal has been the U.S. Department of Agriculture (USDA), which has stated that it "is not sufficiently justified by available scientific data", and that "the [EPA's] decision seems to be arbitrary." Imposing a tolerance on a biological product undermines the EPA's own scientific review process and is inconsistent with the agency's stated intention to expand producer use of biopesticides; instead, it will establish a precedent that could make producers more reluctant to use naturally derived biological products.

The USDA also stated that the proposed rule fails to address possible impacts of the establishment of such tolerances for the affected crop commodities on international trade. Specifically, with the Canadian Pest Management Regulatory Agency having already established a tolerance exemption, revocation of the U.S. tolerance will disrupt harmonization of trade between the two countries. Further, revocation of the tolerance exemption may cause other governments to impose different data requirements to establish maximum residue levels for the product, creating international trade issues.

We encourage EPA to maintain BLAD's existing tolerance exemption.

Sincerely,



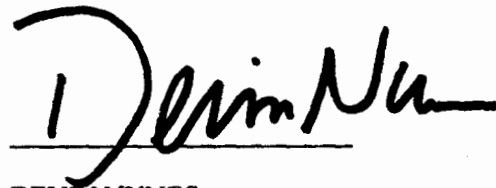
JEFF DENHAM  
Member of Congress



JIM COSTA  
Member of Congress



DOUG LAMALFA  
Member of Congress



DEVIN NUNES  
Member of Congress



DAVID G. VALADAO  
Member of Congress



SAM FARR  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 26 2016

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of March 4, 2016, to the U.S. Environmental Protection Agency regarding a proposal to revoke the residue tolerance on banda de *Lupinus albus* doce. The EPA is aware of concerns regarding the proposal and is taking such feedback into consideration.

In 2013, the EPA promulgated a final rule/tolerance exemption for the biochemical pesticide BLAD. Shortly after the final rule was published in 2013, the U.S. Food and Drug Administration raised concern about BLAD's potential allergenicity to peanut- and lupine-sensitive individuals. The EPA then collaborated with the FDA, the allergenicity expert in the federal government, on potential risk from BLAD to sensitive individuals.

As a result of collaborating with the FDA to protect the safety of the food supply and to better ensure protection for potentially allergic individuals, the EPA has proposed to revoke the tolerance exemption and establish a tolerance for BLAD. The public comment period for the proposal closed on July 28, 2015. The EPA is currently considering the comments and expects to make a decision later this year.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at [kaiser.sven-erik@epa.gov](mailto:kaiser.sven-erik@epa.gov) or (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read "James J. Jones", is written over a printed name and title.

James J. Jones  
Assistant Administrator



11-000-5941

**Congress of the United States**  
**Washington, DC 20515**

April 14, 2011

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army  
for Civil Works  
108 Army Pentagon  
Room 3E446  
Washington, DC 20310-0108

Dear Administrator Jackson and Assistant Secretary Darcy:

In December 2010, the Environmental Protection Agency and Corps of Engineers (collectively, the "Agencies") sent draft "Clean Water Protection Guidance" to the Office of Management and Budget for regulatory review. The intent of the document is to describe how the Agencies will identify waters subject to jurisdiction under the Federal Water Pollution Control Act of 1972 (more commonly known as the "Clean Water Act") and implement the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)* and *United States v. Rapanos (Rapanos)* concerning the extent of waters covered by the Act. Further, this document would supersede guidance that the Agencies previously issued in 2003 and 2008 on determining the scope of "waters of the United States" subject to Clean Water Act programs.

In our view, this "Guidance" goes beyond clarifying the scope of "waters of the United States" subject to Clean Water Act programs. Rather, it is aimed, as even the Agencies acknowledge, at "increas[ing] significantly" the scope of the Clean Water Act's jurisdiction over more waters and more provisions of the Clean Water Act as compared to practices under the currently applicable 2003 and 2008 guidance. ("Guidance," at 1.)

It appears that the Agencies intend to expand the applicability of this "Guidance" beyond section 404 to all other Clean Water Act provisions that use the term "waters of the United States," including sections 402, 401, 311, and 303. Moreover, the Agencies intend to "alleviate the need to develop extensive administrative records for certain jurisdictional determinations" ("Guidance," at 1), thereby shifting the burden of proving the jurisdictional status of a "water" from the Agencies to the regulated community, and thus making the provisions of this "Guidance" binding on the regulated community.

In light of the substantive changes in policy that the Administration is considering with this "Guidance," we are extremely concerned that this "Guidance" amounts to a *de facto* rule instead of mere advisory guidelines. Additionally, we fear that this "Guidance" is an attempt to

short-circuit the process for changing agency policy and the scope of Clean Water Act jurisdiction without following the proper, transparent rulemaking process that is dictated by the Administrative Procedure Act.

This "Guidance" would substantively change the Agencies' policy on waters subject to jurisdiction under the Clean Water Act; undermine the regulated community's rights and obligations under the Clean Water Act; and erode the Federal-State partnership that has long existed between the States and the Federal Government in implementing the Clean Water Act. By developing this "Guidance," the Agencies have ignored calls from state agencies and environmental groups, among others, to proceed through the normal rulemaking procedures, and have avoided consulting with the States, which are the Agencies' partners in implementing the Clean Water Act.

The Agencies cannot, through guidance, change the scope and meaning of the Clean Water Act or the statute's implementing regulations. If the Administration seeks statutory changes to the Clean Water Act, a proposal must be submitted to Congress for legislative action. If the Administration seeks to make regulatory changes, a notice and comment rulemaking is required.

We are very concerned by the action contemplated by the Agencies, and we strongly urge you to reconsider the proposed "Guidance."

Thank you for your attention to this matter.

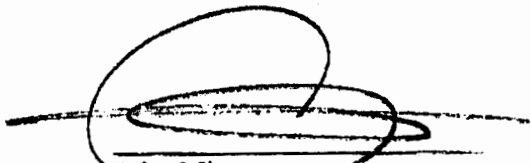
Sincerely,



Bob Gibbs  
Member of Congress



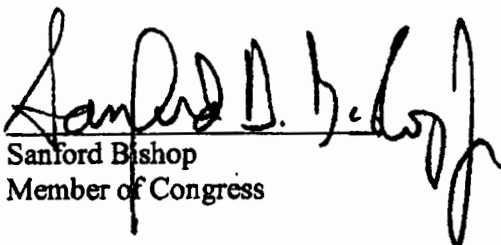
Tim Holden  
Member of Congress



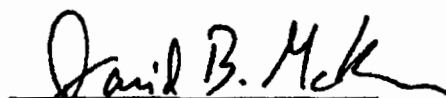
John Mica  
Member of Congress



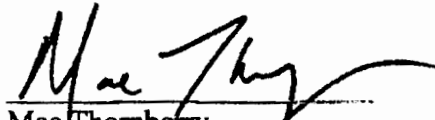
Nick Rahall  
Member of Congress




Sanford Bishop  
Member of Congress




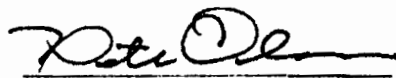
David McKinley  
Member of Congress

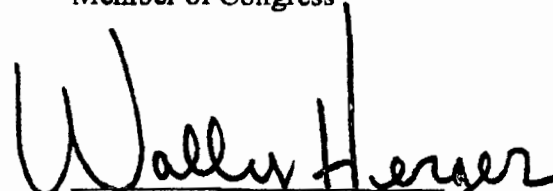
  
 Mac Thornberry  
 Member of Congress

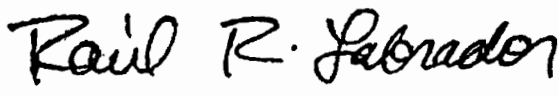
  
 Walter Jones  
 Member of Congress

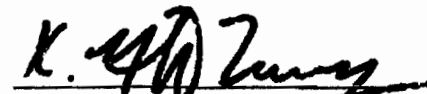
  
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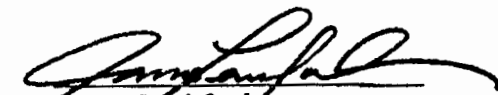
  
 John Carter  
 Member of Congress

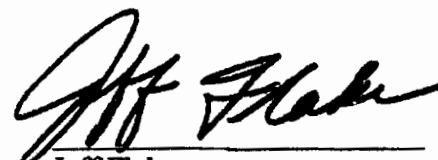
  
 Pete Olson  
 Member of Congress

  
 Wally Herger  
 Member of Congress

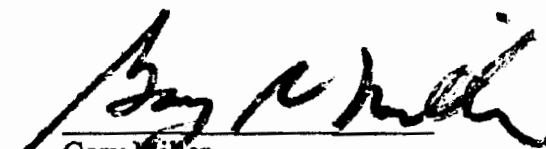
  
 Raúl Labrador  
 Member of Congress

  
 Michael Conaway  
 Member of Congress

  
 James Lankford  
 Member of Congress

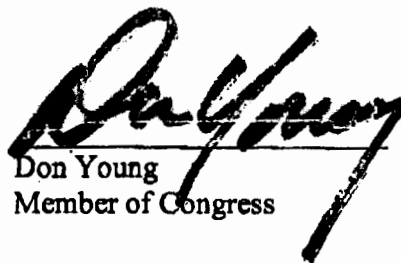
  
 Jeff Flake  
 Member of Congress

  
 Shelley Moore Capito  
 Member of Congress

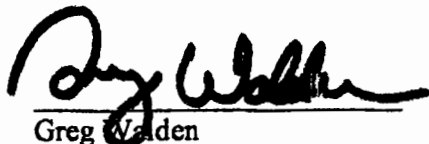
  
 Gary Miller  
 Member of Congress



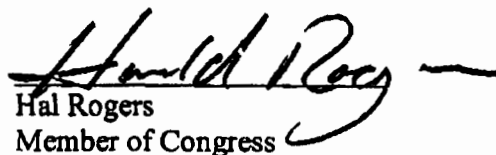
Brett Guthrie  
Member of Congress



Don Young  
Member of Congress



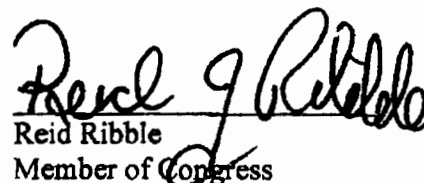
Greg Walden  
Member of Congress



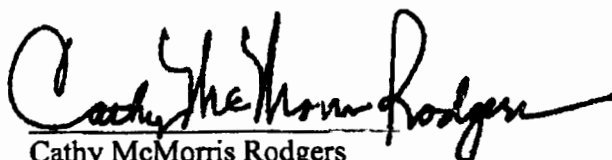
Hal Rogers  
Member of Congress



Jeff Denham  
Member of Congress



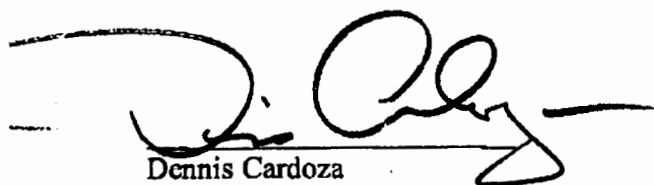
Reid Ribble  
Member of Congress



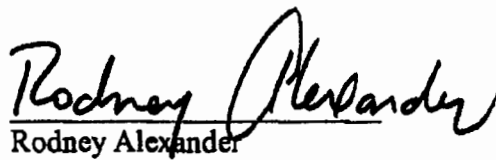
Cathy McMorris Rodgers  
Member of Congress



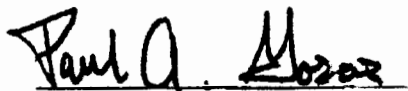
Mike Rogers (AL)  
Member of Congress



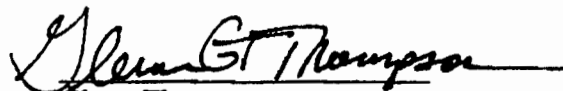
Dennis Cardoza  
Member of Congress



Rodney Alexander  
Member of Congress

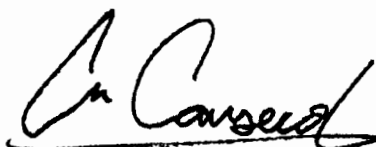



Paul Gosar  
Member of Congress

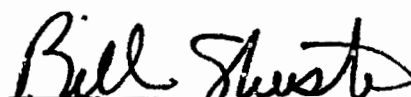



Glenn Thompson  
Member of Congress

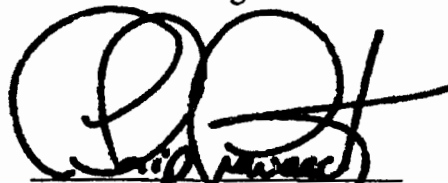
  
Steve King  
Member of Congress


  
Francisco Canseco  
Member of Congress

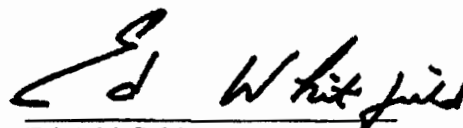
  
Sam Graves  
Member of Congress

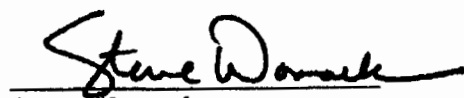
  
Bill Shuster  
Member of Congress

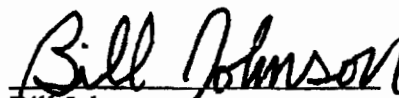
  
Tim Murphy  
Member of Congress


  
Chip Cravack  
Member of Congress

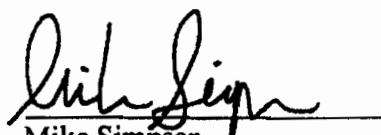
  
Collin Peterson  
Member of Congress

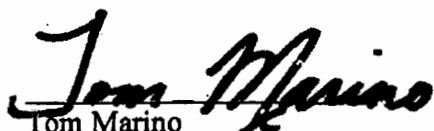
  
Ed Whitfield  
Member of Congress

  
Steve Womack  
Member of Congress

  
Bill Johnson  
Member of Congress

  
Rick Crawford  
Member of Congress

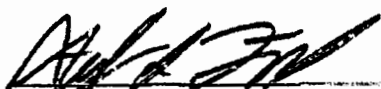
  
Mike Simpson  
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Tom Marino  
Member of Congress



Rob Bishop  
Member of Congress



Stephen Fincher  
Member of Congress



Lynn Westmoreland  
Member of Congress



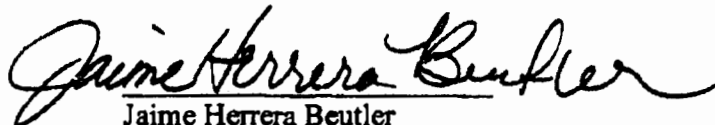
Frank Lucas  
Member of Congress



Billy Long  
Member of Congress



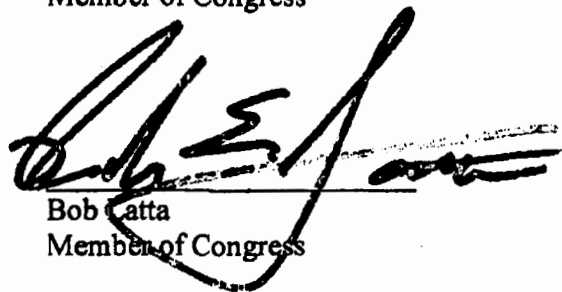
Adam Kinzinger  
Member of Congress



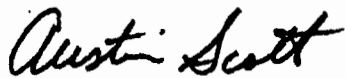
Jaime Herrera Beutler  
Member of Congress



Tom Cole  
Member of Congress



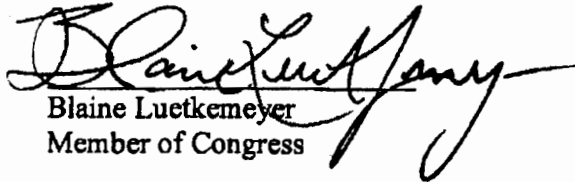
Bob Catta  
Member of Congress




Austin Scott  
Member of Congress



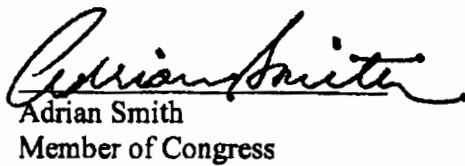
Spencer Bachus  
Member of Congress



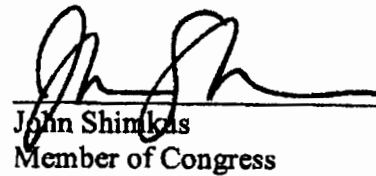
Blaine Luetkemeyer  
Member of Congress



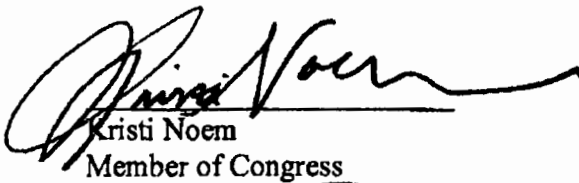
Cory Gardner  
Member of Congress



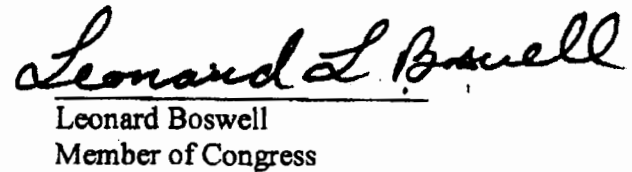
Adrian Smith  
Member of Congress



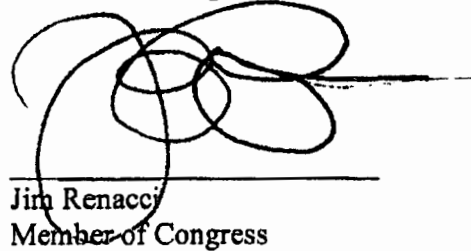
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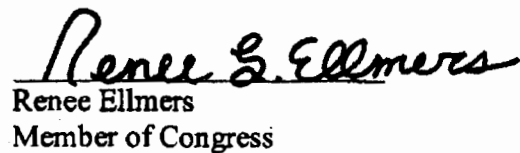
Kristi Noem  
Member of Congress



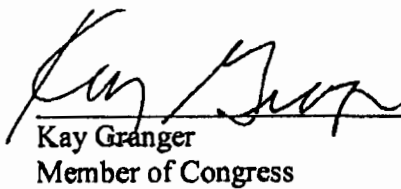
Leonard Boswell  
Member of Congress



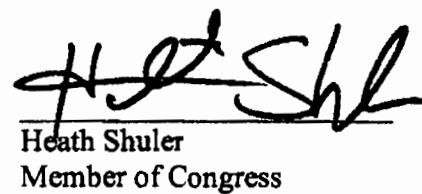
Jim Renacci  
Member of Congress



Renee Ellmers  
Member of Congress



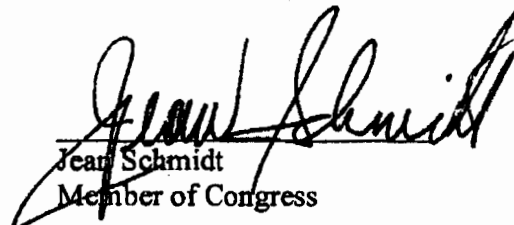
Kay Granger  
Member of Congress



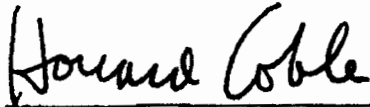
Heath Shuler  
Member of Congress



Mike Coffman  
Member of Congress



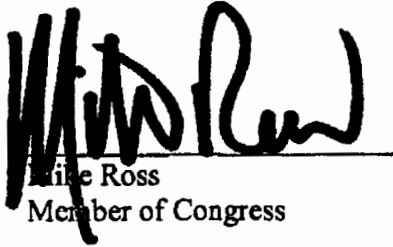
Jean Schmidt  
Member of Congress



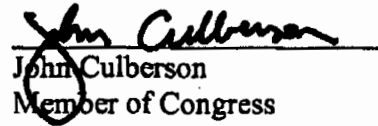
Howard Coble  
Member of Congress



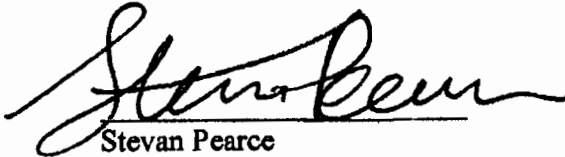
Lou Barletta  
Member of Congress



Mike Ross  
Member of Congress



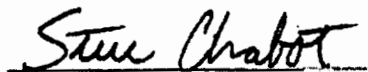
John Culberson  
Member of Congress



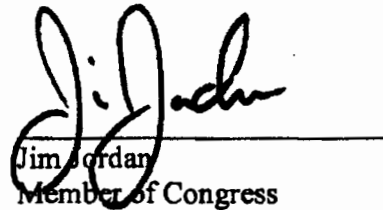
Stevan Pearce  
Member of Congress



Todd Rokita  
Member of Congress



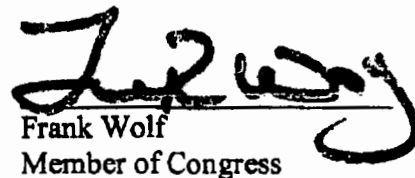
Steve Chabot  
Member of Congress



Jim Jordan  
Member of Congress



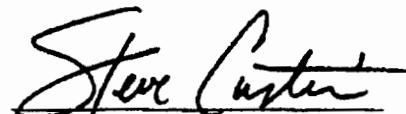
Scott DesJarlais  
Member of Congress



Frank Wolf  
Member of Congress




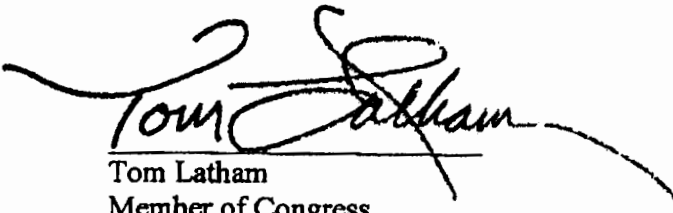
Geoff Davis  
Member of Congress

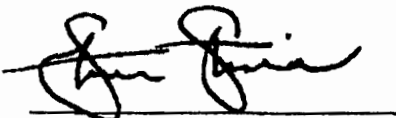


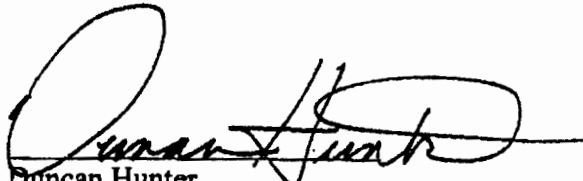
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Member of Congress

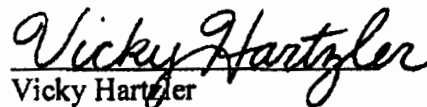


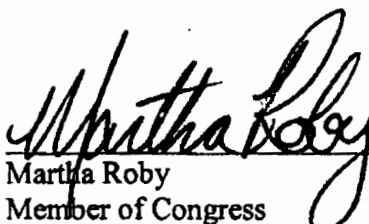
  
Shelley Berkley  
Member of Congress

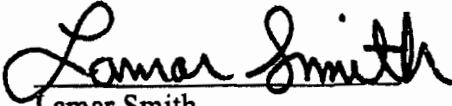
  
Tom Latham  
Member of Congress

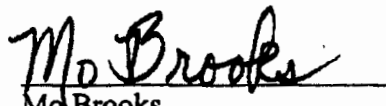
  
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Member of Congress

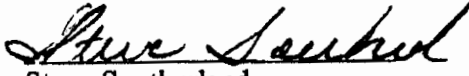
  
Duncan Hunter  
Member of Congress

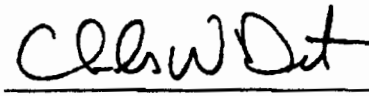
  
Vicky Hartzler  
Member of Congress

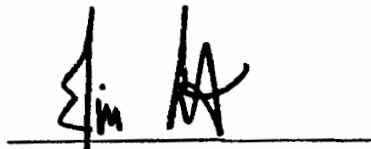
  
Martha Roby  
Member of Congress


  
Lamar Smith  
Member of Congress


  
Mo Brooks  
Member of Congress

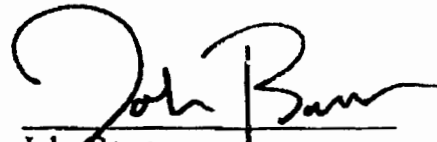
  
Steve Southerland  
Member of Congress


  
Charles Dent  
Member of Congress


  
Jim Costa  
Member of Congress


  
Terri Sewell  
Member of Congress


  
Tom Rooney  
Member of Congress

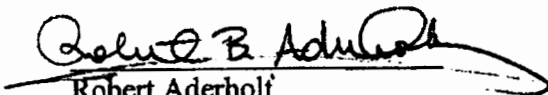
  
John Barrow  
Member of Congress

  
Jo Ann Emerson  
Member of Congress


  
Todd Platts  
Member of Congress

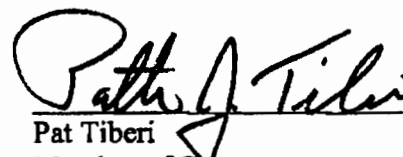
  
Charles Boustany  
Member of Congress


  
Roscoe Bartlett  
Member of Congress

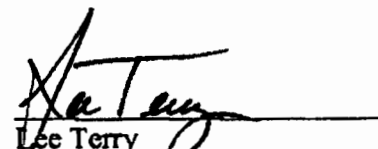
  
Robert Aderholt  
Member of Congress

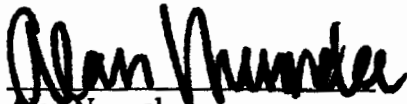
  
Lynn Jenkins  
Member of Congress

  
Cynthia Lummis  
Member of Congress

  
Pat Tiberi  
Member of Congress

  
Mark Critz  
Member of Congress

  
Lee Terry  
Member of Congress



Alan Nunnelee  
Member of Congress



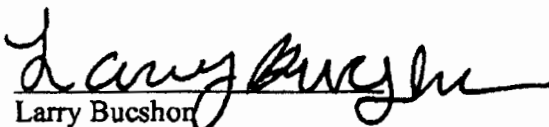
Tim Griffin  
Member of Congress



Randy Neugebauer  
Member of Congress



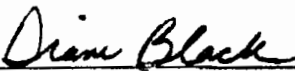
Dan Boren  
Member of Congress



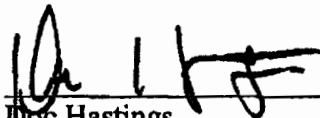
Larry Bucshon  
Member of Congress



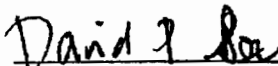
Devin Nunes  
Member of Congress



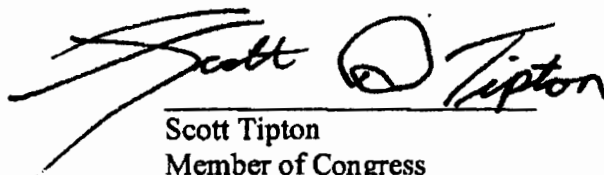
Diane Black  
Member of Congress



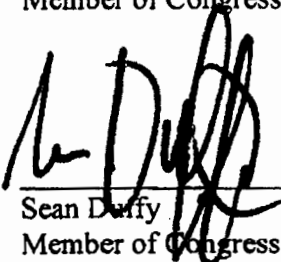
Doc Hastings  
Member of Congress



Phil Roe  
Member of Congress




Scott Tipton  
Member of Congress





Sean Duffy  
Member of Congress

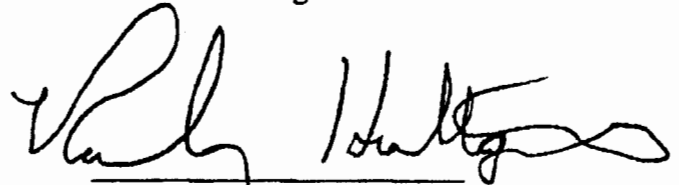



Jason Altmire  
Member of Congress

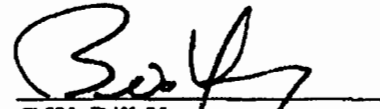
  
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 Member of Congress

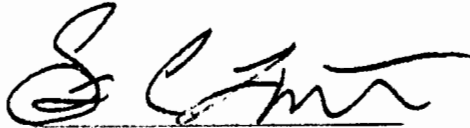
  
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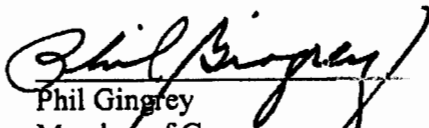
  
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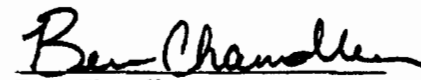
  
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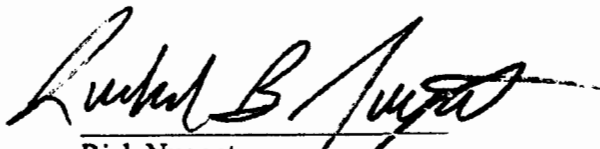
  
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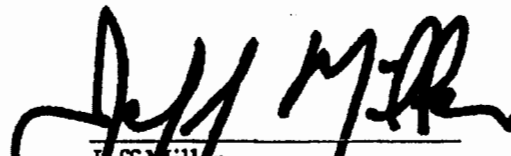
  
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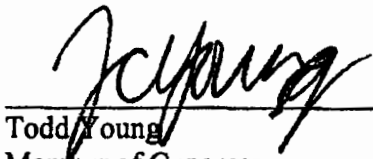
  
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David Rivera  
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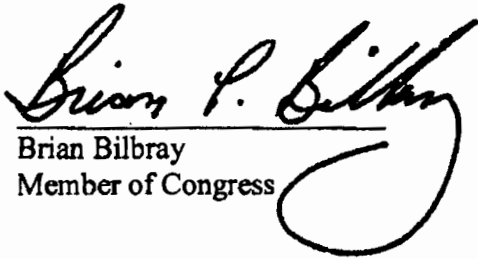
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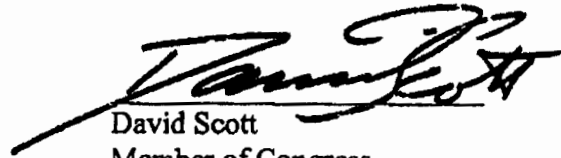
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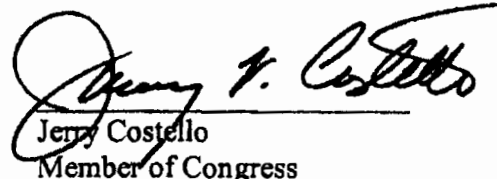
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David Scott  
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Doug Lamborn  
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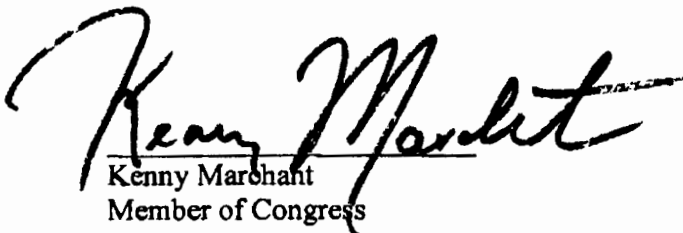
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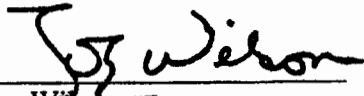
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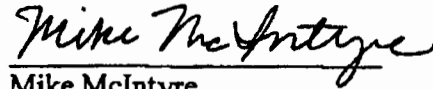
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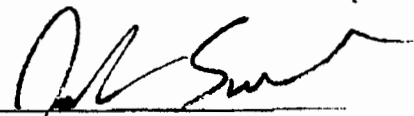
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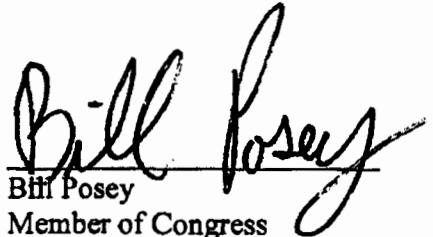
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Mike McIntyre  
Member of Congress



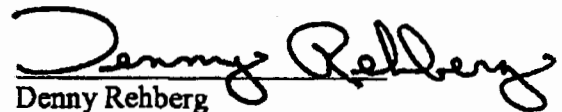
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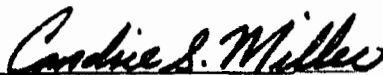
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Bill Flores  
Member of Congress



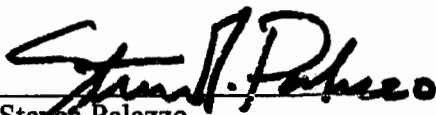
Denny Rehberg  
Member of Congress



Candice Miller  
Member of Congress



Erik Paulsen  
Member of Congress



Steven Palazzo  
Member of Congress



Bill Owens  
Member of Congress



Michael Turner  
Member of Congress



Ralph Hall  
Member of Congress

*Sandy Adams*

Sandy Adams  
Member of Congress

*Ann Marie Buerkle*

Ann Marie Buerkle  
Member of Congress

*Dan Benishek*

Dan Benishek  
Member of Congress

*Robert Hurt*

Robert Hurt  
Member of Congress

*Bill Cassidy*

Bill Cassidy  
Member of Congress

*Patrick McHenry*

Patrick McHenry  
Member of Congress

*Aaron Schock*

Aaron Schock  
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*Bob Goodlatte*

Bob Goodlatte  
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*John Kline*

John Kline  
Member of Congress

*Tom Reed*

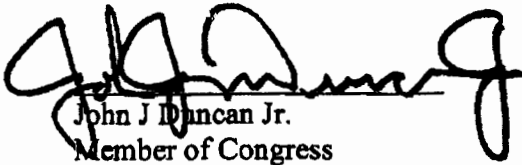
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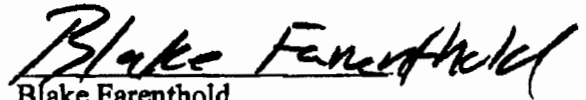
*Mario Diaz-Balart*

Mario Diaz-Balart  
Member of Congress

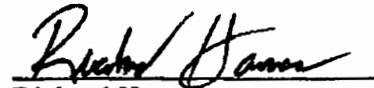
*Jeff Duncan*


Jeff Duncan  
Member of Congress

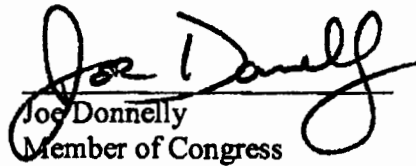
  
John J. Duncan Jr.  
Member of Congress

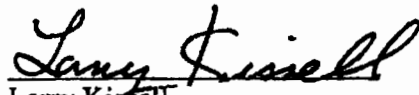
  
Blake Farenthold  
Member of Congress

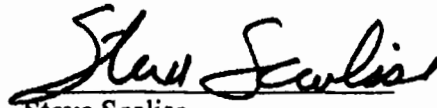
  
Buck McKeon  
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Richard Hanna  
Member of Congress

  
Ben Quayle  
Member of Congress

  
Joe Donnelly  
Member of Congress

  
Larry Kissell  
Member of Congress

  
Steve Scalise  
Member of Congress

CC:

Nancy Sutley, Chair, White House Council on Environmental Quality (CEQ)

Cass Sunstein, Administrator, Office of Information and Regulatory Affairs (OIRA), OMB





JUL 20 2011



The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of April 14, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and the U.S. Department of the Army Assistant Secretary (Civil Works) JoEllen Darcy regarding draft guidance clarifying the definition of "waters of the United States." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the agencies' mission of assuring effective protection for human health and water quality for all Americans. We appreciate the opportunity to respond to your letter.

Recognizing the importance of clean water and healthy watersheds to our economy, environment, and communities, on April 27, 2011, EPA and the U.S. Army Corps of Engineers (Corps) released draft guidance that would update existing policies on where the CWA applies. We want to emphasize that this guidance was issued in draft and is not in effect. The agencies published the draft guidance in the *Federal Register* on May 2, 2011, and are requesting public comment until July 31, 2011. The guidance will not be made final until the after the comment period has closed and any revisions are made after careful consideration of all public input.

It is also important to clarify that the draft guidance would not change existing requirements of the law nor substantially increase the geographic scope of waters subject to protection under the CWA. The extent of waters covered by the Act remains significantly less than the scope protected under the law prior to Supreme Court decisions in *SWANCC* and *Rapanos*, and the agencies' guidance cannot change that. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements, and consistent with the relevant decisions of the Supreme Court.

We share your interest in proceeding with an Administrative Procedure Act rulemaking as soon as possible to modify the agencies' regulatory definition of the term "waters of the United States" to reflect the Supreme Court decisions in *SWANCC* and *Rapanos*. Rulemaking assures an additional opportunity for the states, the public, and stakeholders to provide comments on the scope and meaning of this key regulatory term. EPA and the Corps hope to publish a Notice of Proposed Rulemaking on potential regulatory changes later this year.

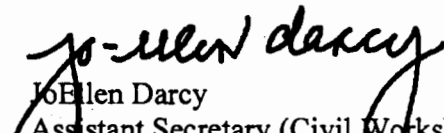
Clean water provides critical health, economic, and livability benefits to American communities. Since 1972, the CWA has kept billions of pounds of pollution out of American waters, and has doubled the number of waters that meet safety standards for swimming and fishing. Despite the dramatic progress in restoring the health of the Nation's waters, an estimated one-third of American waters still do not meet the swimmable and fishable goals of the Clean Water Act. Additionally, new pollution and development challenges threaten to erode our gains, and demand innovative and strong action in partnership with Federal agencies, states, and the public to ensure clean and healthy water for American families, businesses, and communities. EPA and the Corps look forward to working with the public, our federal and state partners, and Congress to protect public health and water quality, and promote the nation's energy and economic security.

We appreciate the opportunity to respond to your letter. We hope you will feel free to contact us if you have additional questions or concerns, or your staff may call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836 or Chip Smith in the Office of the Assistant Secretary (Civil Works) at (703) 693-3655.

Sincerely,



Nancy K. Stoner  
Acting Assistant Administrator  
U.S. Environmental Protection Agency



JoEllen Darcy  
Assistant Secretary (Civil Works)  
U.S. Department of the Army

AL 13-000-3261

**Congress of the United States**  
**Washington, DC 20515**

March 12, 2013

The Honorable Bob Perciasepe  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

Dear Administrator Perciasepe,

We write to express our concerns regarding the Environmental Protection Agency's recent release of the personal information of livestock and poultry producers to various environmental activist groups. While we understand Section 308 of the Clean Water Act grants broad authority to the EPA to collect information and conduct inspections on Concentrated Animal Feeding Operations (CAFOs), we have serious concerns over the EPA's release of this information, particularly regarding the individual privacy rights of those whose information was released, and possible bio-security threats to the Nation's food supply.

It is our understanding that the EPA released a significant accumulation of personal and business information about livestock and poultry farmers across 30 states. Reports indicate that the data was submitted by state environmental quality agencies, and was not reviewed by EPA to determine if any of the information was confidential business information, protected by federal privacy laws, or subject to being withheld for national security concerns. The information included data from farms of all sizes – not just large CAFOs. Additionally, an overwhelming majority of the information released appears to be derived from farms owned by families, who may now face threats to their homes and businesses. Uncontrolled access to this accumulation of personal and geospatial data may represent a serious threat not only to the safety of producers and their families, but also to the Nation's food supply.

We are also deeply concerned that EPA's recent actions signal further implementation of policies that threaten producers' personal privacy, including the development of a comprehensive public database containing detailed information of every livestock and poultry operation. In May 2012, the EPA agreed to propose a CWA Sec. 308 rulemaking to gather data from CAFOs in an agreement with environmental groups. After sustained objections through the comment process the rulemaking was withdrawn in July 2012. The EPA determined, however, that it would still continue to gather data on CAFOs and has stated the Agency still intends to pursue such a national database. Livestock and poultry producers in our districts and across the Country agree these types of actions pose serious risks, which may include targeted harassment and even bio-terrorism. Both the Department of Homeland Security and the Department of Agriculture have echoed these sentiments.




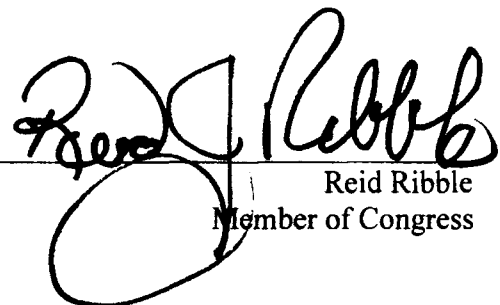
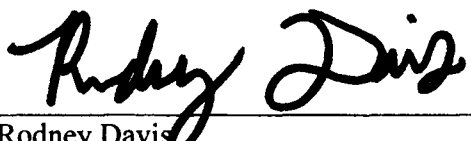
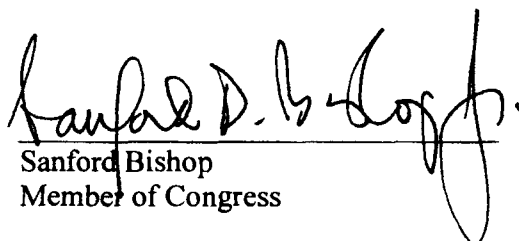

Given the many concerns and outstanding questions surrounding EPA's recent actions, we respectfully request your response to each of the following questions within 30-days, or a detailed explanation of why this cannot be done and a reasonable timetable for full and complete response:

1. What process did EPA use to acquire the released information regarding poultry and livestock producers from state agencies? Did EPA withhold or threaten to withhold funding from state agencies that did not comply with the data requests? Did EPA in any way try to limit the amount of personal information received from the states? Did EPA request or otherwise receive and retain any information on Animal Feeding Operations (AFOs) not qualifying as a regulated CAFO?
2. Does EPA believe that aggregation and dissemination of detailed information on livestock facilities across the Country does not increase the threat of bio-terrorism? If so, what is the basis for dismissing the arguments to the contrary advanced by the federal agencies charged with protecting our food system (USDA) and our national security (DHS)?
3. How did the EPA consider the concerns of the Department of Homeland Security, which argued that a public database of detailed producer information would pose a threat to our Nation's food system? How did the agency consider USDA's concerns? Specifically, did the EPA determine that these Agencies' concerns were not credible or were outweighed by an interest in accumulating and disseminating the information?
4. Does the EPA intend to develop a national database of producer information? If the Agency is assembling or intends to assemble such a database: Will the agency collect data from producers not currently regulated under the CWA Sec. 402 National Pollutant Discharge Elimination System (NPDES)? Will the database include information detailing the name and address of the farmer, longitude and latitude or other geospatial data, and number and type(s) of animals? Will the database include AFOs not subject to CWA regulations?
5. What will EPA do to help protect producers and their operation from the possible abuse of the information gathered and released by the EPA?

While we share your commitment to pursue responsible policies that achieve the goals of the Clean Water Act, we do not believe unnecessarily intruding into the lives and businesses of our Nation's farm families is the proper course of action. We urge you to suspend any efforts to assemble a public, national database of detailed and personal producer information, and instead refocus your efforts to ensure that the recent release of data is not misused in a way that threatens our Nation's producers and the integrity of our Nation's food supply that farm families make possible.

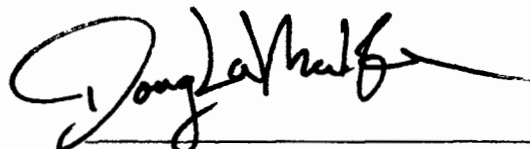
We appreciate your prompt attention to this important matter, and look forward to your response.

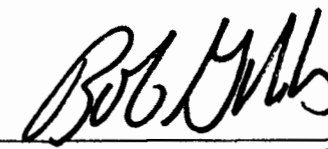
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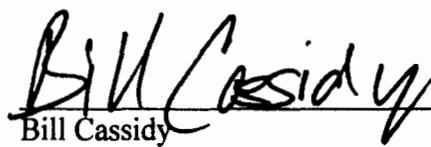
  
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Member of Congress  
Frank Lucas  
Member of Congress  
Steve Stockman  
Member of Congress  
Reid Ribble  
Member of Congress  
Jeff Denham  
Member of Congress  
Vicky Hartzler  
Member of Congress  
Rodney Davis  
Member of Congress  
Michael Conaway  
Member of Congress  
Sanford Bishop  
Member of Congress  
Dan Benishek  
Member of Congress

  
Ted Yoho  
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Bob Goodlatte  
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Doug LaMalfa  
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Bob Gibbs  
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Bill Cassidy  
Member of Congress

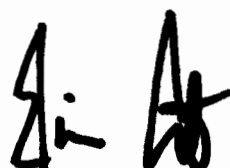
  
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Kristi Noem  
Member of Congress

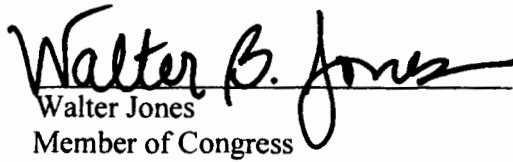
  
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Scott Desjarlais  
Member of Congress

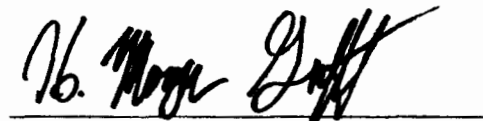
  
Randy Neugebauer  
Member of Congress

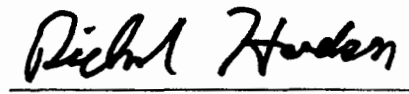
  
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Tom Cotton  
Member of Congress

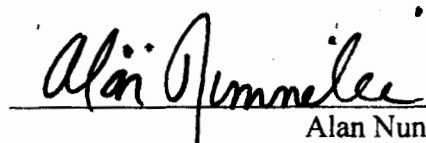
  
Walter Jones  
Member of Congress


  
Billy Long  
Member of Congress

  
Morgan Griffith  
Member of Congress


  
Richard Hudson  
Member of Congress

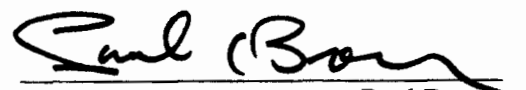
  
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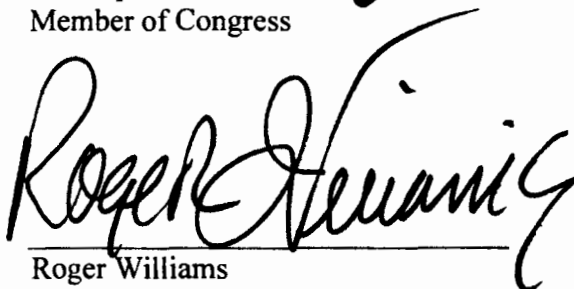
  
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Mike Rogers (A-03)  
Member of Congress

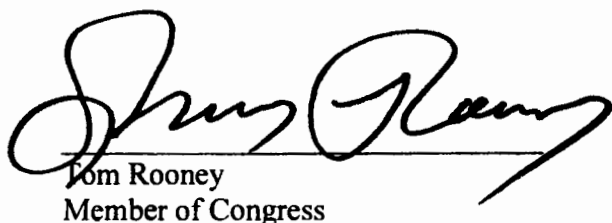
  
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Fred Upton  
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Paul Broun  
Member of Congress


  
Roger Williams  
Member of Congress

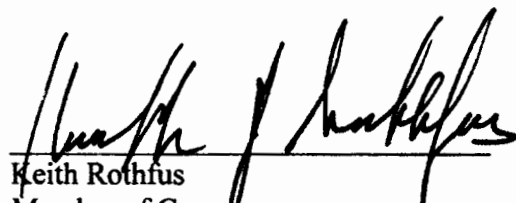
  
Tim Griffin  
Member of Congress

  
Tom Rooney  
Member of Congress

  
Austin Scott  
Member of Congress

  
Martha Roby  
Member of Congress

  
Tom Graves  
Member of Congress

  
Keith Rothfus  
Member of Congress

  
Chris Collins  
Member of Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 15 2013

OFFICE OF  
WATER

The Honorable Rick Crawford  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Crawford:

Thank you for your letter of March 12, 2013, to the U.S. Environmental Protection Agency expressing concerns about the EPA's recent release of data on concentrated animal feeding operations pursuant to the Freedom of Information Act.

The EPA treats with utmost seriousness the importance of protecting the privacy of Americans recognized by the FOIA, the Privacy Act, and the EPA's Privacy Policy. In recognition of the concerns raised by the animal agricultural industry, the EPA engaged in an exhaustive review of the EPA's FOIA response to determine whether, as the agency had understood, the information the EPA released is publicly available, and whether any revisions to the agency's determination to release the information is warranted under the privacy exemption (Exemption 6) of the FOIA.

As a result of this comprehensive review, we have determined that, of the twenty-nine states<sup>1</sup> for which the EPA released information, all of the information from nineteen of the states is either available to the public on the EPA's or states' websites, is subject to mandatory disclosure under state or federal law, or does not contain data that implicated a privacy interest. The data from these nineteen states is therefore not subject to withholding under the privacy protections of FOIA Exemption 6. The EPA has determined that some personal information received from the ten remaining states<sup>2</sup> is subject to Exemption 6.

The EPA has thoroughly evaluated every data element from each of these ten states and concluded that personal information – i.e., personal names, phone numbers, email addresses, individual mailing addresses (as opposed to business addresses) and some notes related to personal matters – implicates a privacy interest that outweighs any public interest in disclosure.

We amended our FOIA response to redact portions of the data provided by these ten states. The redacted portions include telephone numbers, email addresses, and notations that relate to personal matters. They also include the names and addresses of individuals (as opposed to business facility names and locations, though facility names that include individuals' names have been redacted). We believe that this amended FOIA response continues to serve its intended purpose to provide basic location and other information about animal feeding operations, in order to serve the public interest of ensuring that the EPA effectively implements its programs to protect water quality, while addressing the privacy interests of the agricultural community.

<sup>1</sup> The twenty-nine states are: Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Louisiana, Maryland, Maine, Michigan, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.

<sup>2</sup> The ten remaining states are: Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio, and Utah.

The EPA has delivered the amended data to the FOIA requestors, and has also provided copies to representatives of the animal agricultural industry. In addition, the EPA requested that the previous data releases be returned to the agency, and all the original requestors subsequently complied with this request. The agency has also asked agricultural stakeholder groups to report to the EPA if any activities happen on their farms that they believe directly resulted from this FOIA release.

The agency is also working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA. More specifically, key leaders in our Office of Environmental Information and FOIA experts are developing training for all agency employees, including those in the Office of Water (OW), on the agency's obligations under the FOIA and responding to FOIA requestors. The training will focus on all aspects of processing a FOIA request, including how to properly safeguard information that may be exempt from mandatory disclosures, and will become a regular practice to agency personnel.

With respect to your questions about the process used to collect information from animal feeding operations, as your letter reflects, the EPA initially proposed a rule that would have required CAFO owners to submit information about their operations to the agency. The agency later withdrew this rule and opted instead to work with states, which were already collecting this information, to gather the data. As part of this effort, the EPA established a Memorandum of Understanding (MOU) with the Association of Clean Water Administrators related to the agency voluntarily collecting information about animal feeding operations from the states. The EPA contacted states and gathered and released data from 29 state agencies, all of which have the authority to regulate animal feeding operations. The EPA's request to states only pertained to information on permitted and unpermitted CAFOs. Some states also provided information on additional animal feeding operations. The data was voluntarily submitted to the EPA in various forms (e.g., spreadsheets, public websites, databases, etc.). At the time of submission, the EPA informed each state agency that any records the EPA received would be subject to the Freedom of Information Act. At no time did the EPA withhold or threaten to withhold funding from state agencies that did not submit data.

As also noted in your letter, the agency did receive comments from the U.S. Departments of Homeland Security and Agriculture on the EPA's proposed animal feeding operation data collection rule. The EPA did not provide a formal response to these comments because they were received as part of the inter-agency review process. As mentioned above, the EPA later withdrew the proposed rule.

As stated by the EPA in its Federal Register notice withdrawing the data collection rule, "collecting existing information, evaluating it, and compiling it in one format will better inform the agency" in implementing its obligation to learn about the universe of animal feeding operations and protect the nation's waters under the Clean Water Act. The EPA has not determined how the data gathered will be used internally or externally. The agency commits to working together with our federal partners, industry and other stakeholders to determine the best approaches for working with the state data provided. To give you some background and context, in September 2008, the United States Government Accountability Office issued a report to congressional requestors, recommending that the EPA "should complete the agency's effort to develop a national inventory of permitted CAFOs..."<sup>3</sup> The report also stated that "despite its long-term regulation of CAFOs, the EPA has neither the information it needs to

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<sup>3</sup> U.S. Gov't Accountability Office, *Concentrated Animal Feeding Operations—EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality*, GAO-08-944 5 (2008), page 48.

assess the extent to which CAFOs may be contributing to water pollution, nor the information it needs to ensure compliance with the Clean Water Act."

Again, thank you for your letter. The EPA is committed to conducting its activities with the highest legal and ethical standards and in the public interest. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 15 2013

OFFICE OF  
WATER

The Honorable Jeff Denham  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of March 12, 2013, to the U.S. Environmental Protection Agency expressing concerns about the EPA's recent release of data on concentrated animal feeding operations pursuant to the Freedom of Information Act.

The EPA treats with utmost seriousness the importance of protecting the privacy of Americans recognized by the FOIA, the Privacy Act, and the EPA's Privacy Policy. In recognition of the concerns raised by the animal agricultural industry, the EPA engaged in an exhaustive review of the EPA's FOIA response to determine whether, as the agency had understood, the information the EPA released is publicly available, and whether any revisions to the agency's determination to release the information is warranted under the privacy exemption (Exemption 6) of the FOIA.

As a result of this comprehensive review, we have determined that, of the twenty-nine states<sup>1</sup> for which the EPA released information, all of the information from nineteen of the states is either available to the public on the EPA's or states' websites, is subject to mandatory disclosure under state or federal law, or does not contain data that implicated a privacy interest. The data from these nineteen states is therefore not subject to withholding under the privacy protections of FOIA Exemption 6. The EPA has determined that some personal information received from the ten remaining states<sup>2</sup> is subject to Exemption 6.

The EPA has thoroughly evaluated every data element from each of these ten states and concluded that personal information – i.e., personal names, phone numbers, email addresses, individual mailing addresses (as opposed to business addresses) and some notes related to personal matters – implicates a privacy interest that outweighs any public interest in disclosure.

We amended our FOIA response to redact portions of the data provided by these ten states. The redacted portions include telephone numbers, email addresses, and notations that relate to personal matters. They also include the names and addresses of individuals (as opposed to business facility names and locations, though facility names that include individuals' names have been redacted). We believe that this amended FOIA response continues to serve its intended purpose to provide basic location and other information about animal feeding operations, in order to serve the public interest of ensuring that the EPA effectively implements its programs to protect water quality, while addressing the privacy interests of the agricultural community.

<sup>1</sup> The twenty-nine states are: Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Louisiana, Maryland, Maine, Michigan, Missouri, Montana, North Carolina, North Dakota, Nebraska, New Jersey, New York, Ohio, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming.

<sup>2</sup> The ten remaining states are: Arizona, Colorado, Georgia, Indiana, Illinois, Michigan, Montana, Nebraska, Ohio, and Utah.

The EPA has delivered the amended data to the FOIA requestors, and has also provided copies to representatives of the animal agricultural industry. In addition, the EPA requested that the previous data releases be returned to the agency, and all the original requestors subsequently complied with this request. The agency has also asked agricultural stakeholder groups to report to the EPA if any activities happen on their farms that they believe directly resulted from this FOIA release.

The agency is also working to ensure that any future FOIA requests for similar information are reviewed carefully to ensure that privacy-related information is protected to the extent required by FOIA. More specifically, key leaders in our Office of Environmental Information and FOIA experts are developing training for all agency employees, including those in the Office of Water (OW), on the agency's obligations under the FOIA and responding to FOIA requestors. The training will focus on all aspects of processing a FOIA request, including how to properly safeguard information that may be exempt from mandatory disclosures, and will become a regular practice to agency personnel.

With respect to your questions about the process used to collect information from animal feeding operations, as your letter reflects, the EPA initially proposed a rule that would have required CAFO owners to submit information about their operations to the agency. The agency later withdrew this rule and opted instead to work with states, which were already collecting this information, to gather the data. As part of this effort, the EPA established a Memorandum of Understanding (MOU) with the Association of Clean Water Administrators related to the agency voluntarily collecting information about animal feeding operations from the states. The EPA contacted states and gathered and released data from 29 state agencies, all of which have the authority to regulate animal feeding operations. The EPA's request to states only pertained to information on permitted and unpermitted CAFOs. Some states also provided information on additional animal feeding operations. The data was voluntarily submitted to the EPA in various forms (e.g., spreadsheets, public websites, databases, etc.). At the time of submission, the EPA informed each state agency that any records the EPA received would be subject to the Freedom of Information Act. At no time did the EPA withhold or threaten to withhold funding from state agencies that did not submit data.

As also noted in your letter, the agency did receive comments from the U.S. Departments of Homeland Security and Agriculture on the EPA's proposed animal feeding operation data collection rule. The EPA did not provide a formal response to these comments because they were received as part of the inter-agency review process. As mentioned above, the EPA later withdrew the proposed rule.

As stated by the EPA in its Federal Register notice withdrawing the data collection rule, "collecting existing information, evaluating it, and compiling it in one format will better inform the agency" in implementing its obligation to learn about the universe of animal feeding operations and protect the nation's waters under the Clean Water Act. The EPA has not determined how the data gathered will be used internally or externally. The agency commits to working together with our federal partners, industry and other stakeholders to determine the best approaches for working with the state data provided. To give you some background and context, in September 2008, the United States Government Accountability Office issued a report to congressional requestors, recommending that the EPA "should complete the agency's effort to develop a national inventory of permitted CAFOs..."<sup>3</sup> The report also stated that "despite its long-term regulation of CAFOs, the EPA has neither the information it needs to

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<sup>3</sup> U.S. Gov't Accountability Office, *Concentrated Animal Feeding Operations—EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality*, GAO-08-944 5 (2008), page 48.

assess the extent to which CAFOs may be contributing to water pollution, nor the information it needs to ensure compliance with the Clean Water Act.”

Again, thank you for your letter. The EPA is committed to conducting its activities with the highest legal and ethical standards and in the public interest. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at 202-564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized, looping flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

Congress of the United States  
Washington, DC 20515

October 1, 2014

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army  
Department of the Army  
108 Army Pentagon  
Washington, D.C. 20310

The Honorable Thomas Vilsack  
Secretary  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Washington, D.C. 20250

Dear Administrator McCarthy, Secretary Darcy, and Secretary Vilsack:

We are writing regarding the Interpretive Rule (IR) jointly proposed by the Environmental Protection Agency and the U.S. Army Corps of Engineers on March 25, 2014 with the intent of clarifying how the recently proposed 'Waters of the United States' rule would impact normal farming exemptions under Section 404(f)(1)(A) of the Clean Water Act (CWA). Our questions and comments are specific to the impact of the IR on the dairy industry.

As members of Congress representing significant milk producing regions, we appreciate that voluntary agricultural conservation practices play a significant role in the conservation of private working lands and are critical to maintaining clean air and clean water. We know very well that dairy farmers in our states enjoy productive, collaborative relationships with USDA and Natural Resources Conservation Service (NRCS) field offices as they work to manage their land and water.

With this in mind, we are concerned that the IR has created an atmosphere of uncertainty that may disincentivize dairy producers from conducting numerous soil and water conservation practices. Therefore, we urge you to respond to the following concerns that we have regarding the Interpretive Rule based on conversations with our constituents in the dairy farming sector.

Your agencies have indicated that the IR is intended to provide certainty to farmers and ranchers by listing 56 specific soil and water conservation practices that are exempt from CWA Section 404 permitting rules. Prior to the release of the IR, all normal farming practices, including all upland soil and water conservation practices and most, if not all, of the 56 listed practices, were understood to be exempt from Section 404 requirements, based on the language of Section 404(f)(1)(A) of the CWA. Moreover, farmers were not required to adhere to specific standards in order to qualify for the exemption.

However, the IR introduces a new requirement that in order to obtain exemptions for the 56 listed practices, farmers must be in compliance with NRCS standards. In your view, how does this requirement square with your agencies' stated intention not to modify the scope of agricultural activities that are already exempt under Section 404? Does the IR put NRCS in a position of enforcing regulatory requirements under the CWA as opposed to promoting voluntary conservation? Furthermore, do you believe that the new requirements for the 56 listed conservation practices impact the legal standing of the Section 404 exemption for practices that are not listed?


We also wish to better understand how the IR will impact existing, ongoing conservation efforts conducted by farmers and ranchers, particularly for dairy operations. The dairy industry worked collaboratively with NRCS to develop the Dairy Environmental Handbook, which outlines numerous best practices for dairy producers. Some, but not all, of these practices are based on NRCS recommendations, but they do not necessarily mirror the agency's exact standards.

However, with the issuance of the IR, we are concerned that dairy producers who follow their industry's conservation guidelines, developed in accordance with NRCS, will no longer qualify for exemptions from Section 404 of the CWA. Dairy farmers will understandably be unsure about which standards to follow and will possibly view the IR as a disincentive to conducting certain conservation practices altogether. This seems to run counter to the goal of encouraging farmers to responsibly manage and conserve their soil and water resources. In your view, if a dairy farmer follows the guidelines in the Handbook, rather than specific guidelines from NRCS, will they be subject to liability under the CWA as a result of the IR?

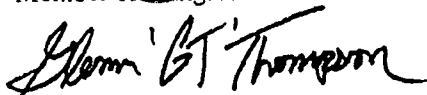
Finally, we share the concerns of our constituents that the IR took effect without any notice and comment period, giving impacted stakeholders in the dairy industry and others no opportunity to provide input on its contents. We understand that this is often the case for interpretive rules, but this particular rule puts in place notable policy changes for agriculture, so this is a concern to us and our constituents. We are hopeful that dairy farmers and other stakeholders will have additional opportunities to provide their views on this topic.

Thank you for your consideration of our questions and comments. We look forward to your responses on these important farming and conservation issues.


Sincerely,



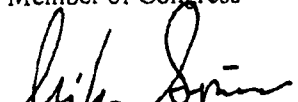
REID J. RIBBLE  
Member of Congress




GLENN 'GT' THOMPSON  
Member of Congress



DAVID G. VALADAO  
Member of Congress



MICHAEL K. SIMPSON  
Member of Congress



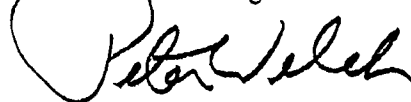
SUZAN K. DELBENE  
Member of Congress



COLLIN C. PETERSON  
Member of Congress



JIM COSTA  
Member of Congress

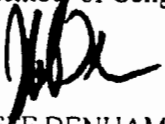


PETER WELCH  
Member of Congress





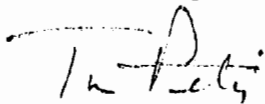
CHRIS COLLINS  
Member of Congress



JEFF DENHAM  
Member of Congress



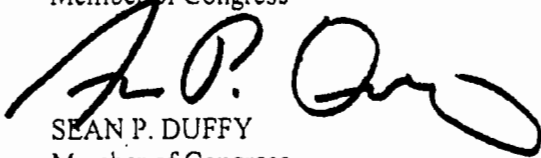
RICHARD L. HANNA  
Member of Congress



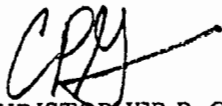
THOMAS E. PETRI  
Member of Congress



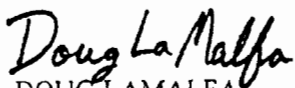
TOM REED  
Member of Congress



SEAN P. DUFFY  
Member of Congress



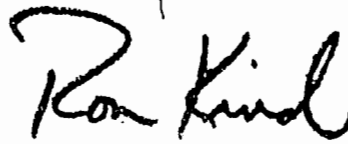
CHRISTOPHER P. GIBSON  
Member of Congress



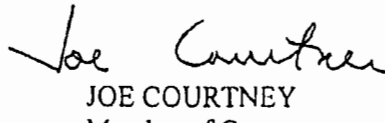
DOUG LAMALFA  
Member of Congress



GLORIA NEGRETE MCLEOD  
Member of Congress



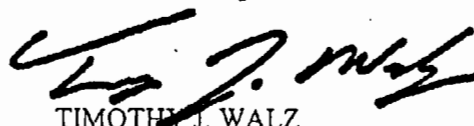
RON KIND  
Member of Congress



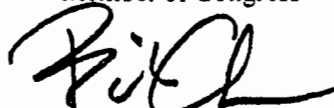
JOE COURTNEY  
Member of Congress



DANIEL B. MAFFEI  
Member of Congress



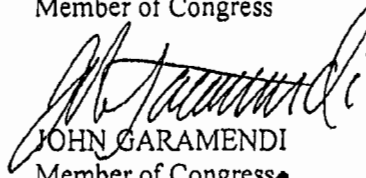
TIMOTHY J. WALZ  
Member of Congress



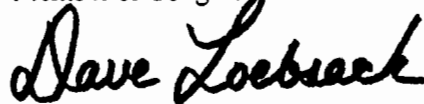
WILLIAM R. OWENS  
Member of Congress



KURT SCHRADER  
Member of Congress



JOHN GARAMENDI  
Member of Congress



DAVID LOEBSACK  
Member of Congress



The Honorable Jeff Denham  
House of Representatives  
Washington, D.C. 20515

FEB 11 2015

Dear Congressman Denham:

Thank you for your October 1, 2014, letter to the U.S. Environmental Protection Agency, the U.S. Department of the Army, and the U.S. Department of Agriculture regarding the interpretive rule related to the applicability of Clean Water Act Section 404(f)(1)(A).

On December 16, 2014, President Obama signed the Consolidated and Further Continuing Appropriations Act, 2015, which instructs the EPA and the Department of the Army to withdraw the agencies' interpretive rule. Consistent with the statutory directive, the EPA and the Army have withdrawn the interpretive rule. The exemptions from Clean Water Act permits for discharges of dredged and/or fill material will continue to apply for normal farming, silviculture, and ranching activities, as well as for other qualifying agricultural activities under 404(f)(1). Withdrawal of the interpretive rule also does not impact the agencies' work to finalize their rulemaking to define the scope of the Clean Water Act.

Thank you again for your letter. Please contact us if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836, Chip Smith in the Office of the Assistant Secretary of the Army (Civil Works) at [charles.r.smith567.civ@mail.mil](mailto:charles.r.smith567.civ@mail.mil) or (703) 693-3655, or Patty Lawrence in USDA's Natural Resources Conservation Service at (202) 720-0134.

Sincerely,

Kenneth J. Kopocis  
Deputy Assistant Administrator for Water  
U.S. Environmental Protection Agency

Jo-Ellen Darcy  
Assistant Secretary (Civil Works)  
U.S. Department of the Army

Robert Bonnie  
Undersecretary for Natural Resources and the Environment  
U.S. Department of Agriculture

**Congress of the United States**  
**Washington, DC 20515**

August 9, 2012

The Honorable Lisa P. Jackson  
EPA Administrator  
1200 Pennsylvania Avenue, N.W.  
**Mail Code: 1101A**  
Washington, DC 20460

Dear Administrator Jackson:

We are encouraged by your July 2 letter to New Mexico Gov. Susana Martinez announcing a 90-day stay for the Federal Implementation Plan for the San Juan Generating Station (SJGS). Your action provides an important opportunity to find a mutually agreeable and reasonable means of meeting regional haze requirements at the New Mexico plant.

As Representatives of California municipal utilities that are stakeholders and owners of the SJGS, we request your assistance in facilitating this dialog sought by the Governor and the plant's operator, Public Service Company of New Mexico (PNM) and the plant's owners in California. Your involvement is critical to finding an approach that strikes a reasonable balance between environmental benefits and economic impacts when determining the right haze-reduction retrofits for the SJGS.

Crafting a balanced approach is important to the California public utilities and their customers who will have to pay a large share of the costs of meeting regional haze requirements at the SJGS.

Cost-effectiveness and reasonableness are two of the five criteria embedded in the regional haze law that is aimed at improving visibility in National Parks and wilderness areas. Regional haze requirements are separate from health-based standards, and cost of compliance must be considered by EPA when determining the best available retrofit technology for reducing haze-causing emissions, especially in view of current economic conditions.

EPA appears to have grossly underestimated the cost of installing the "Selective Catalytic Reduction" technology mandated by its Federal Implementation Plan. Installation bids recently received from firms specializing in Selective Catalytic Reduction technology are at least twice as high as EPA's estimates. This raises serious doubts about whether EPA's plan meets the cost-effectiveness criteria. EPA's discussions with the State of New Mexico and PNM should clarify the actual costs of compliance and so lead to an agreement on an appropriate technology to reduce the emissions from SJGS that impair visibility.

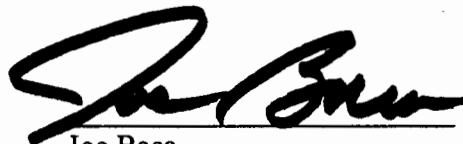
We encourage you to work with the stakeholders to find a solution that will meet the visibility goals of the regional haze standards in a manner that reflects full consideration of customer costs and economic impacts in the region served by the SJGS.

Please keep us informed of your progress. We have a short time frame to make this work for all involved.

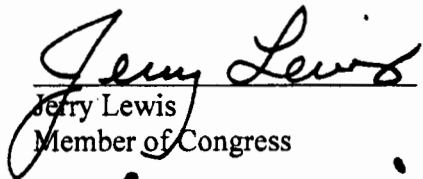
Sincerely,



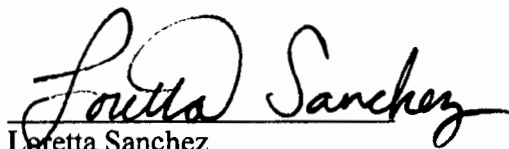
Mary Bono Mack  
Member of Congress



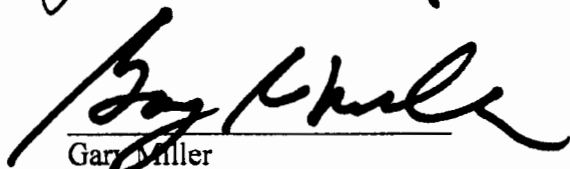
Joe Baca  
Member of Congress



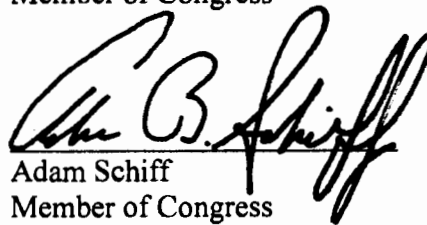
Jerry Lewis  
Member of Congress



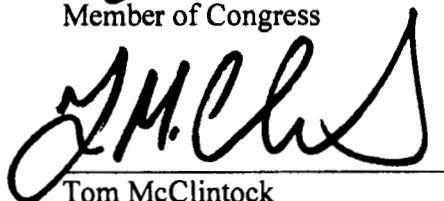
Loretta Sanchez  
Member of Congress



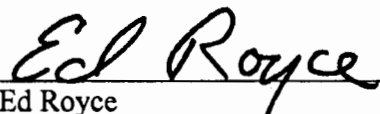
Gary Miller  
Member of Congress



Adam Schiff  
Member of Congress



Tom McClintock  
Member of Congress



Ed Royce  
Member of Congress



Jeff Denham  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202 - 2733

Office of the Regional Administrator

November 8, 2012

The Honorable Jeff Dunham  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Dunham:

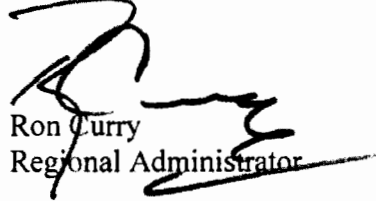
Thank you for your letter of August 9, 2012, to the U.S. Environmental Protection Agency Administrator Lisa P. Jackson regarding the 90-day stay of the New Mexico Interstate Transport Federal Implementation Plan and best available retrofit technology determination (76 FR 52388). Your letter was forwarded to me for reply because New Mexico is within the jurisdiction of Region 6.

As you mention in your letter, the EPA issued a 90-day stay of a federal clean air plan for the San Juan Generating Station in New Mexico that began on July 15, 2012. The stay offers an opportunity to further work with New Mexico, PNM and other interested parties toward replacing the federal clean air plan with a state plan that alternatively addresses the regional haze requirements of the Clean Air Act while serving the economic and environmental interests of the state. The New Mexico Environment Department has taken the lead in engaging interested stakeholders in discussions on the feasibility of possible alternatives through a series of public meetings and the creation of a technical workgroup. While we were not a member of the technical workgroup, the EPA provided technical expertise on various topics to the NMED, including guidance on the requirements of the regional haze rule and the five-factor analysis needed to inform a determination. The five-factor analysis includes an evaluation of the costs of compliance, the energy and non-air quality environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source and the degree of visibility improvement which may reasonably be anticipated from the use of BART.

Considering the encouraging progress accomplished during the 90-day administrative stay of the federal plan and also the remaining work, on October 12, 2012, the EPA issued an extension of the administrative stay by an additional 45 days. This additional time is needed so that the NMED has the opportunity to provide information required for the EPA to propose positive action on a state plan under the Clean Air Act. The extension will allow the EPA and New Mexico to discuss the proposal the state released on October 2, 2012, and additional ideas that could prove beneficial in creating a state plan that would ultimately satisfy the requirements of the Clean Air Act.

We encourage all interested stakeholders to participate in this process and provide input to the NMED as it works with the EPA, PNM and other stakeholders to develop a BART alternative. If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Ms. Cynthia Fanning, Congressional Liaison, at (214) 665-2142.

Sincerely,



Ron Curry  
Regional Administrator

Identical letters sent to:

The Honorable Mary Bono Mack House of Representatives	The Honorable Ed Royce House of Representatives
The Honorable Joe Baca House of Representatives	The Honorable Jerry Lewis House of Representatives
The Honorable Loretta Sanchez House of Representatives	The Honorable Gary Miller House of Representatives
The Honorable Adam Schiff House of Representatives	The Honorable Tom McClintock House of Representatives

**Congress of the United States**  
**Washington, DC 20515**

July 31, 2012

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our concerns regarding the Environmental Protection Agency's (EPA) proposed rule governing cooling water intake structures under Section 316(b) of the Clean Water Act. This proposed rule will affect more than a thousand coal, nuclear, and natural gas power plants and manufacturing facilities across the country and has the potential to impose enormous costs on consumers without providing human health benefits or significant improvements to fish populations. We believe it is critically important that the final rule provides ample compliance flexibility to accommodate the diversity of these facilities, allows for multiple pre-approved technologies, ensures that the definition of closed-cycle systems at existing facilities is not more stringent than for new facilities, and forgoes the use of its "willingness to pay" public opinion survey.

Flexibility

The proposed rule correctly provides states with the lead authority to make site-specific evaluations to address entrainment. It is vitally important that EPA's final rule retain this compliance flexibility, allowing technology choices to be made on a site-specific basis reflecting costs and benefits. We encourage the EPA to adopt these features in the impingement parts of the rule as well.

Impingement Requirements

The proposed rule includes a stringent national numeric impingement standard that would be extremely difficult for facilities with state-of-the-art controls to meet. Even the technology EPA prefers—advanced traveling screens and fish return systems—cannot meet the proposed standard on a reliable basis. The final rule must, instead, provide multiple pre-approved technologies that, once installed and properly operated, would be recognized as sufficient to address impingement concerns. In cases where such technologies are not feasible or cost-beneficial, we ask that the rule provide an alternative compliance option and relief where it can be shown there are minimal impingement or entrainment impacts on fishery resources. Further, the final rule should extend the compliance deadline for impingement to the longer proposed deadline for entrainment, and provide adequate time to allow companies to make integrated, cost-effective compliance decisions.

Definition of Closed-Cycle Cooling

Many facilities today have closed-cycle cooling systems. The rule must ensure that the definition of what qualifies as closed-cycle systems at existing facilities is not more stringent than the one EPA already has adopted for new facilities. The definition should include any closed-cycle system that

recirculates water during normal operating conditions, and the definition must not exclude impoundments simply because they are considered waters of the United States.

Public Opinion Survey

We ask that the EPA abandon the use of its "willingness to pay" public opinion survey discussed in its second Notice of Data Availability (NODA). The public opinion survey method is highly controversial and does not provide a basis for reliable results. The survey results EPA has published to date are incomplete, insufficiently analyzed, and lack peer review. This approach to economic analysis is far too speculative to serve as a basis for national regulatory decisionmaking and presents very worrisome national, legal, policy, and governance implications that go well beyond this rulemaking. EPA's conventional cost-benefit analysis produced an unwarranted cost to benefit ratio of 21:1. Using the incomplete public opinion survey approach instead of the accepted conventional cost-benefit analysis causes an alarming shift in this ratio to 1:5, a change of 10,000 percent. Such an extreme change in benefits raises questions about the validity of the survey. Furthermore, the survey itself is misleading and inaccurate. Scientific studies have not demonstrated that reducing impingement and entrainment by regulating cooling water intake structures will result in measurable improvements in fish populations, yet that is what the survey clearly suggests.

We appreciate your consideration of the above improvements to the proposed rule and hope that the EPA will adopt them before finalizing the rule. These changes would help to reduce the current substantial disparity between the proposed rule's costs and benefits. Such actions by the EPA would conform to the President's January 2011 Executive Order 13563, which directs agencies to adopt rules that minimize regulatory burden and produce maximum net benefits.

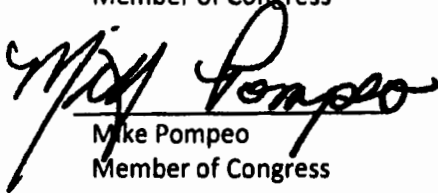
Sincerely,



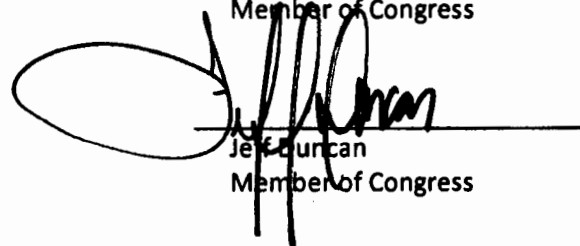
Jason Altmire  
Member of Congress



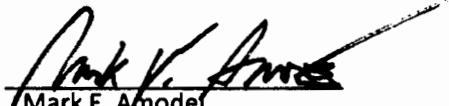
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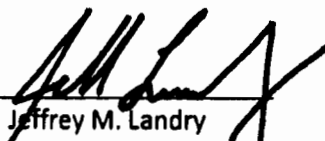



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Bill Shuster  
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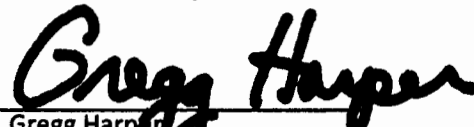



  
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Marsha Blackburn  
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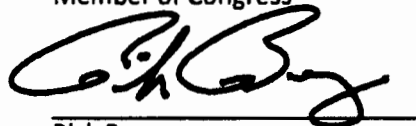
  
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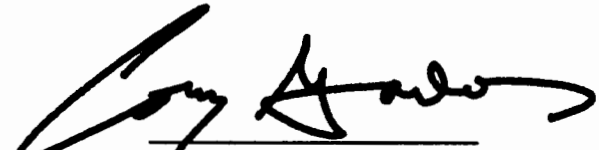
  
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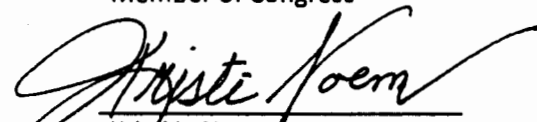
  
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Aaron Schock  
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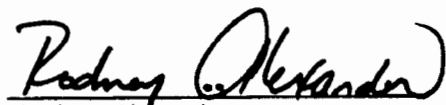
  
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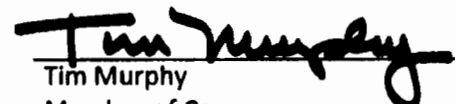
  
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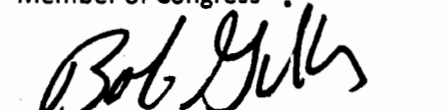
  
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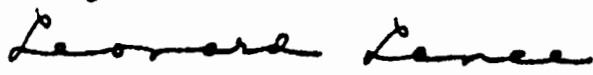
  
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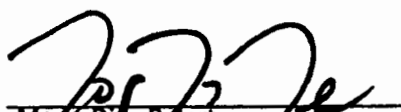
  
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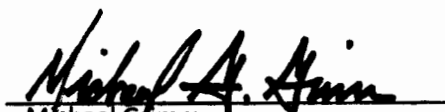
  
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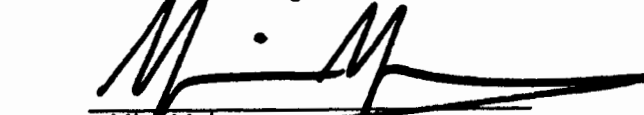
  
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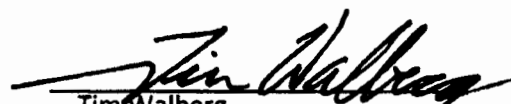
  
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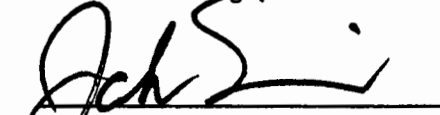
  
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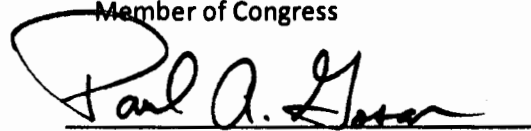
  
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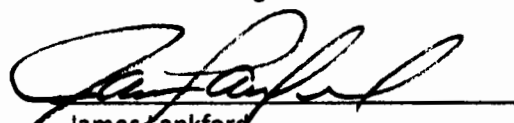
  
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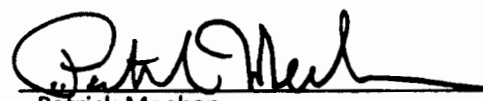
  
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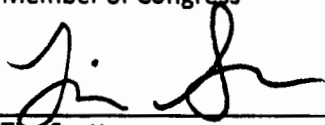
  
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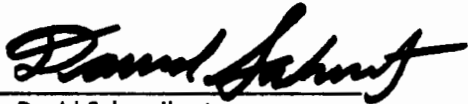
  
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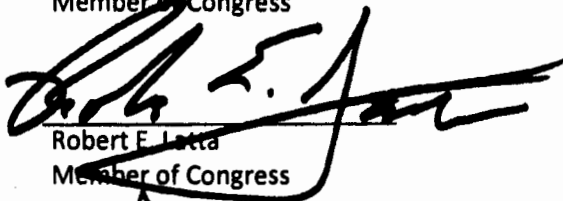
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Tim Scott  
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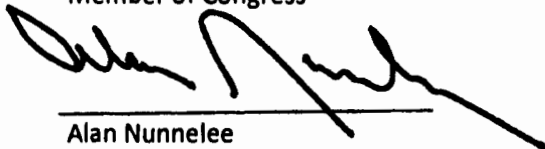
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Sam Graves  
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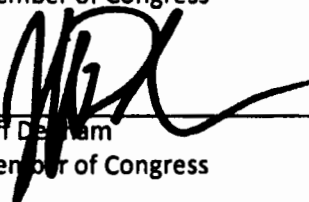
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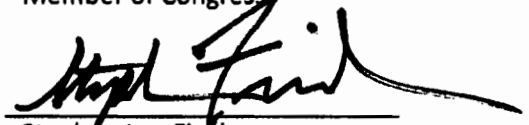
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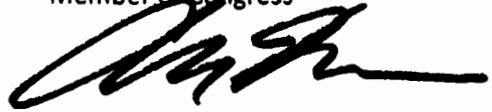
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H. Morgan Griffith  
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Stephen Lee Fincher  
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Adam Kinzinger  
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Eric A. "Rick" Crawford  
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Tim Ryan  
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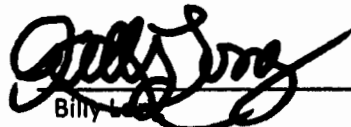
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Reid J. Ribble  
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Raul R. Labrador  
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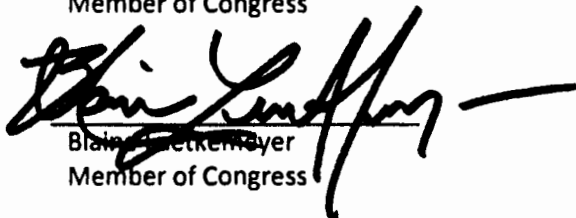


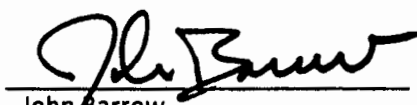
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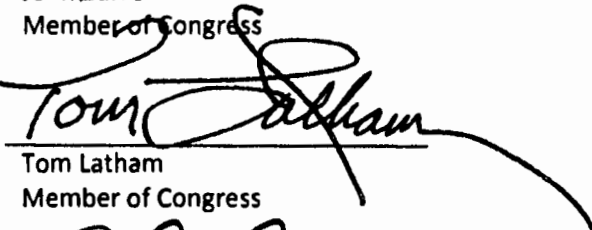


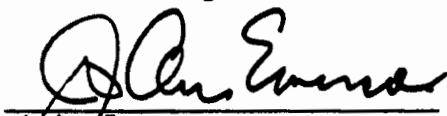
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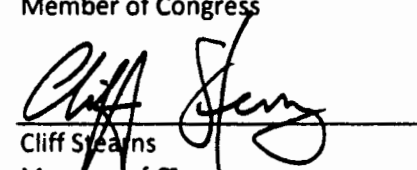
  
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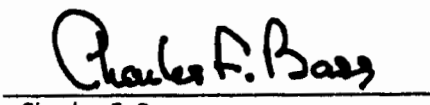
  
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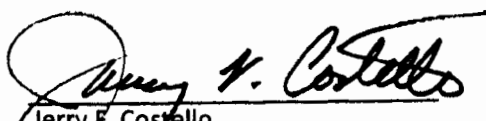
  
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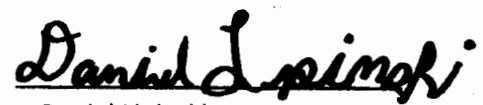
  
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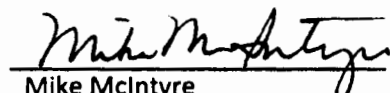
  
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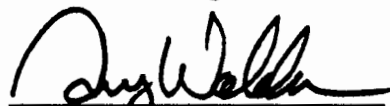
  
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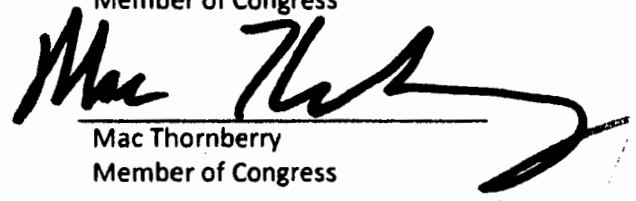
  
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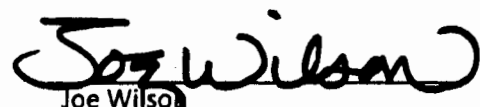
  
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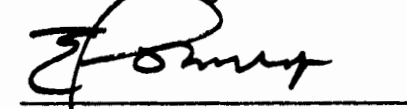
  
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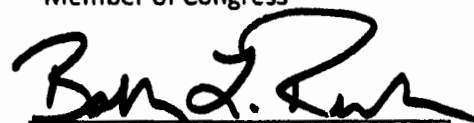
  
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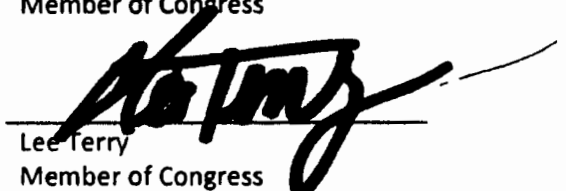
  
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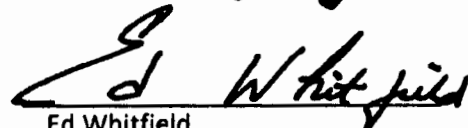
  
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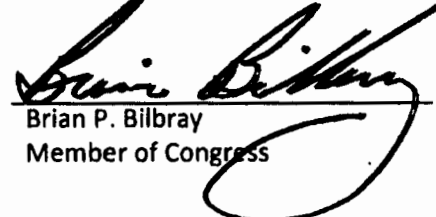
  
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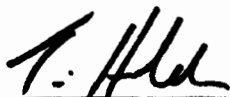
  
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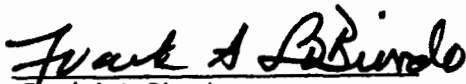
  
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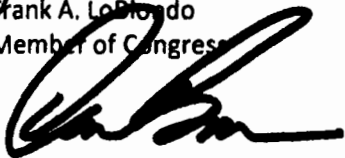
  
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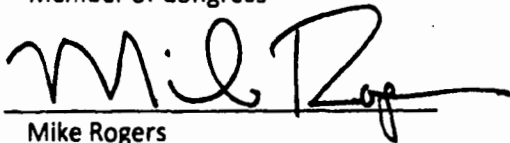
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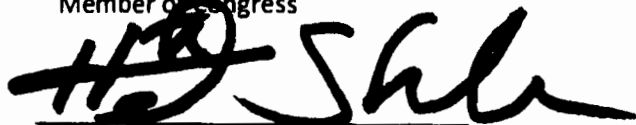
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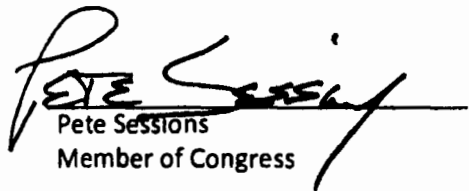
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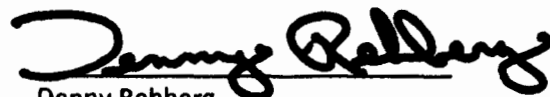
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Cathy McMorris Rodgers  
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Jim Matheson  
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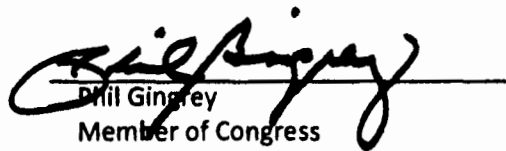
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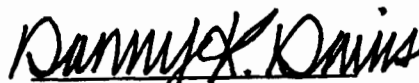
Tom Cole  
Member of Congress



Bill Flores  
Member of Congress



Phil Gingrey  
Member of Congress



Danny K. Davis  
Member of Congress

cc: Michael Goo, EPA  
Jim Laity, OMB  
Jack Lew, The White House  
The Honorable Robert Perciasepe, EPA  
Bruce Reed, The White House  
Gene Sperling, NEC  
The Honorable Cass R. Sunstein, OMB  
The Honorable Jeffrey Zients, OMB



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 31 2012

OFFICE OF WATER

The Honorable Jeff Denham  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of July 31, 2012, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson regarding the proposed rule for cooling water intake structures that the EPA published in April 2011. During the public comment period for the proposed rule, we received many comments on how to make national standards work better for the diverse community of interests, including more than 1200 industrial facilities, state permitting authorities, and commercial and recreational fishermen. Your letter reflects some of the concerns we heard during the public comment period. The EPA is carefully considering the comments and new data we have received from the regulated community and other stakeholders as it works toward a final rule. As the senior policy manager of the EPA's national water program, I am pleased to respond to your letter on behalf of Administrator Jackson.

The proposed rule would establish national standards under section 316(b) of the Clean Water Act for certain existing power plants and manufacturing facilities. Under the Clean Water Act, section 316(b) standards must reflect the best technology available for "minimizing adverse environmental impact." The proposed rule seeks to minimize adverse environmental impact through standards that protect aquatic organisms from death and injury resulting from the withdrawal of water by cooling water intake structures. The largest power plants and manufacturing facilities in the United States (that each withdraw at least two million gallons per day) cumulatively withdraw more than 219 billion gallons of water each day, resulting in the death of billions of aquatic organisms such as fish, larvae and eggs, crustaceans, shellfish, sea turtles, marine mammals, and other aquatic life. Most impacts are to early life stages of fish and shellfish through impingement<sup>1</sup> and entrainment<sup>2</sup>. The proposed rule would establish a baseline level of protection from impingement and then allow additional safeguards for aquatic life to be developed through site-specific analysis by the states. This flexible approach would ensure that the most up-to-date technologies are considered and appropriate cost-effective protections of fish and other aquatic populations are used.

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<sup>1</sup> Impingement is the pinning of fish and other larger aquatic organisms against the screens or other parts of the intake structure.

<sup>2</sup> Entrainment is the injury or death of smaller organisms that pass through the power plant cooling system.

Your letter expresses concerns regarding the potential costs that our rule may have on power plants and on consumers. Let me assure you that the EPA takes these concerns very seriously. The agency is working hard to develop a final rule that achieves environmental benefits consistent with the Clean Water Act and in a way that ensures that our nation's energy supplies remain reliable and affordable.

Your letter expressed concern about the impingement mortality standards, related alternatives and flexibility, and the timeline for compliance in the proposed rule. Since proposal, the EPA has received new data related to the performance of impingement mortality control technologies. In particular, the EPA obtained more than 80 studies that provided additional data on the costs and performance of these technologies. These data include important information related to how the EPA might approach the definition of impingement mortality and compliance alternatives.

On June 11, 2012, the EPA published a Notice of Data Availability (NODA) setting forth a number of possible approaches to increase flexibility for impingement requirements. Perhaps most significantly, the NODA described a streamlined regulatory process for facilities that simply opt to employ specific pre-approved technologies that have been consistently demonstrated to protect the greatest numbers of fish and other aquatic life. The NODA solicited comment on how to establish impingement controls on a site-specific basis in those circumstances in which the facility demonstrates that the typical controls are not feasible. The NODA also identified a possible site-specific impingement category that would reduce or even eliminate new technology requirements for facilities with very low rates of fish and aquatic life death or injury. The EPA also requested comment on how best to define closed-cycle recirculating systems to ensure effective operation of these systems at existing facilities. We were pleased that stakeholders submitted the information requested in the NODA, and the EPA is considering all of this new information as we move toward completing the final rule.

Your letter also indicated concern with an EPA survey that is described in a second NODA published June 12, 2012. As stated in the NODA, the EPA's work in this area is preliminary and, "the agency has not yet determined what role, if any, the survey will play in the benefits analysis of the final 316(b) rulemaking." This survey was conducted to provide the public with more complete information about the benefits of reducing fish mortality. The benefits to society of preventing ecological damage to the aquatic environment are difficult to assess because it is hard to place a monetary value on the ecological services and public benefits of a healthy ecosystem. At the time of proposal, the EPA made it clear that the Regulatory Impact Analysis (RIA) underestimated the actual benefits and that the agency had already commenced a stated preference survey in order to do a better job of capturing the benefits of the rule.

The stated preference method poses hypothetical policy options, allowing researchers to directly inquire about citizens' willingness to pay for environmental improvements. This method can assess ecological benefits in a more complete manner than the methodologies the EPA used for the proposed rule. Stated preference methodologies have been refined for over 30 years in the academic literature, have been extensively tested and validated through years of research, and are widely accepted by both government agencies and the U.S. courts as a reliable technique for

estimating non-market values of healthy ecosystems.<sup>3</sup> The EPA has been using data derived from stated preference surveys, where appropriate, in RIAs, for several decades. The EPA survey described in the second NODA follows the White House Office of Management and Budget (OMB) published guidance on conducting such surveys (Circular A-4: Regulatory Analysis 2003), and was approved by OMB in June 2011.

The NODA was intended to inform the public of the preliminary results of the survey, make this information available for review, and provide an opportunity for all interested stakeholders to comment. The EPA also explained that the survey would be revised based on additional analysis, a range of analytical tests for rigor and consistency, public comments, and the results of an external peer review which would be completed prior to taking final action on the rule.

Since publication of the NODA, the EPA has completed the majority of this additional analytical work and reviewed the public comments from the June 12 NODA. We are also proceeding with an independent, external peer review, as described above, with a panel of economists and survey experts. Once the EPA has revised its analysis to reflect peer reviewer comments, the results of the stated preference survey will be posted online at: <http://epa.gov/waterscience/316b>. After a full review of the completed analysis, public comments, and the independent peer review, the agency will be in a position to determine the appropriate use of the stated preference survey in the final 316(b) rulemaking.

Again, thank you for your letter on this important rule. The agency proposed these regulations to meet its Clean Water Act obligations, and we expect to take final action in 2013. In doing so, we intend to fully consider all comments we received during the public comment periods for the proposed rule and the subsequent comments received in response to the two NODAs published in the Federal Register on June 11 and 12, 2012. For additional information on the proposed rule or the NODAs, please go to the EPA's 316(b) webpage at the above link.

If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

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<sup>3</sup>See: *Enhancing the Content Validity of Stated Preference Valuation: The Structure and Function of Ecological Indicators*, Johnston et al., 2012 and *What Have We Learned from Over 20 Years of Farmland Amenity Valuation Research in North America?*, Bergstrom and Ready 2009.



AL 11-000-4972

**Congress of the United States**  
Washington, DC 20515

March 29, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Jackson:

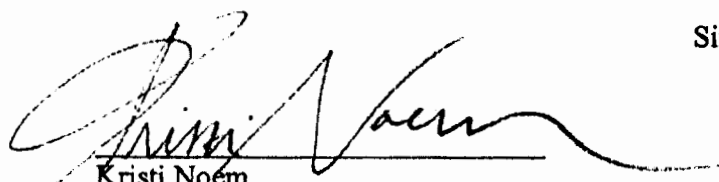
We write today to express our concerns about the U.S. Environmental Protection Agency's (EPA) potential revision to the National Ambient Air Quality Standards (NAAQS) for Coarse Particulate Matter (PM<sub>10</sub>), more commonly known as dust. Making the PM<sub>10</sub> standard more stringent would have a devastating impact on farmers, ranchers, and all of rural America. This could cost farmers and businesses millions of dollars in compliance costs, greatly slowing economic development in rural communities where job creation is desperately needed.

For many areas of the country, especially in rural America, dust occurs naturally and is a simple fact of life. There are many activities essential to farming such as plowing, planting, and harvesting which involve dust. Even driving down an unpaved road raises dust. These regulations could decrease the ability of the agriculture community in the United States to meet the world's food needs as well as decrease productivity, increase food prices, and incur job losses in rural America.

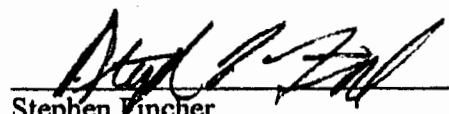
The potential revision of the NAAQS to a level of 65-85 µg/m<sup>3</sup> is below naturally occurring levels of dust in some states, making it impossible to meet. By EPA's own admission, the number of counties in nonattainment would more than double. Not surprisingly, these areas are primarily located in rural, dry parts of the country. At a time when the focus of the Administration should be on economic development and job creation, the EPA is instead promulgating rules which may have the opposite effect. If implemented, the proposed standards could subject farmers, livestock producers, and industry to burdensome regulations which could result in fines amounting to \$37,500 a day for violations. Even EPA's 2<sup>nd</sup> Draft Policy Assessment acknowledges that uncertainties in scientific studies would allow the EPA to retain the current standard.

There are no better stewards of the land than America's agriculture community. Given the difficulty and expensive process of mitigating dust in most settings, the revised standards could have a devastating impact on rural economies and greatly reduce our nation's food security. If, as the agency has determined, rural fugitive dust has been found to be of less public health concern than dust in urban areas, there is no reason to adopt the revised standard. We strongly encourage the EPA not to implement the more stringent proposed standards.

Sincerely,



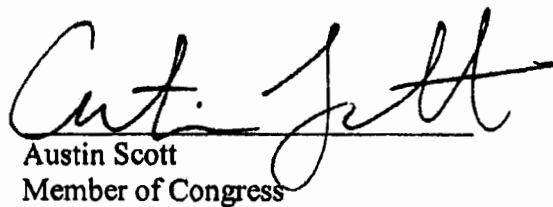
Kristi Noem  
Member of Congress



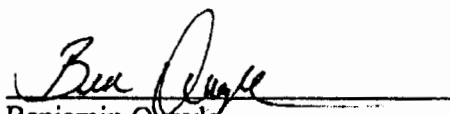
Stephen Fincher  
Member of Congress



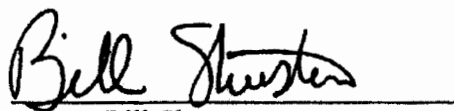
Adam Kinzinger  
Member of Congress



Austin Scott  
Member of Congress



Benjamin Quayle  
Member of Congress



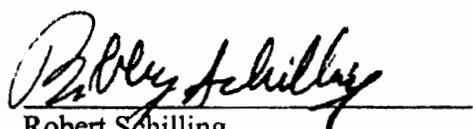
Bill Shuster  
Member of Congress



Bob Goodlatte  
Member of Congress



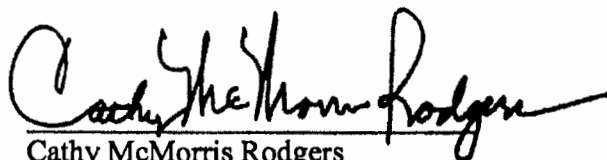
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Robert Schilling  
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Brett Guthrie  
Member of Congress



Cathy McMorris Rodgers  
Member of Congress

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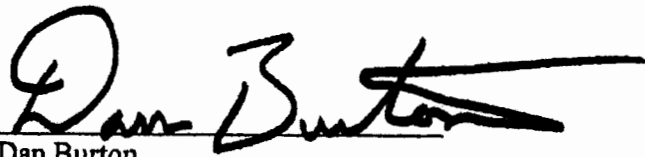
Charles "Chuck" Fleischmann  
Member of Congress



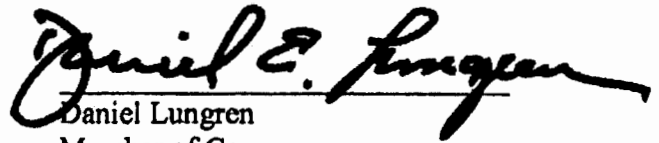
Cory Gardner  
Member of Congress



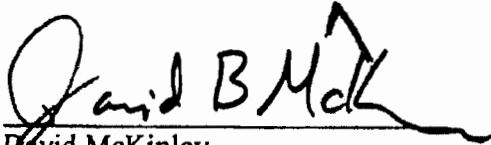
Dan Benishek  
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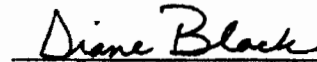
Dan Burton  
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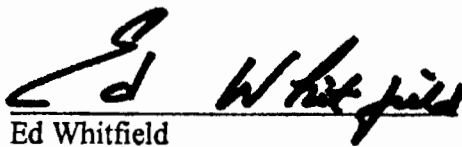
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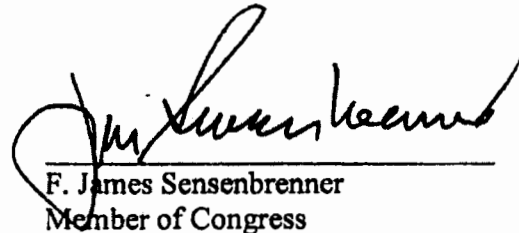
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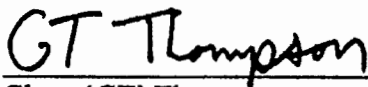
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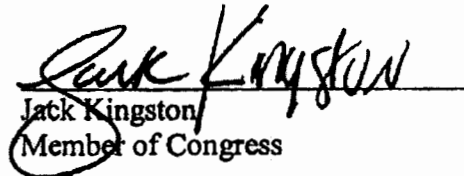
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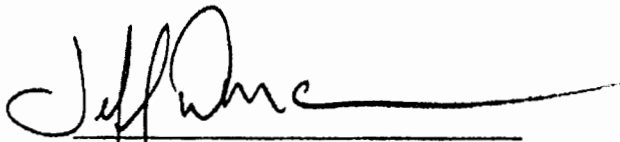
F. James Sensenbrenner  
Member of Congress



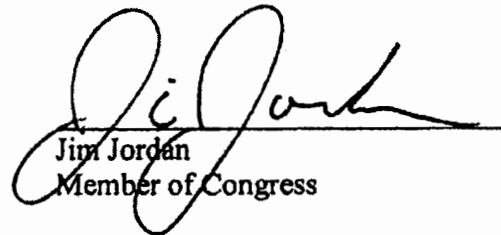
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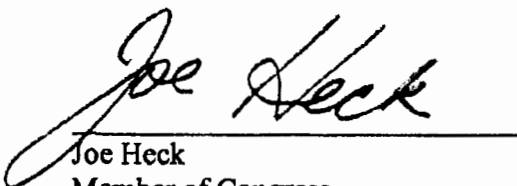
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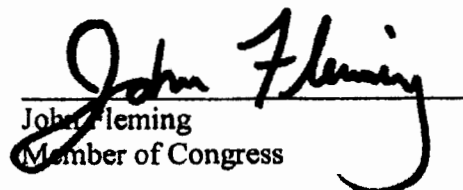
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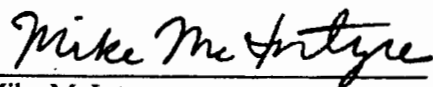
Jim Jordan  
Member of Congress



Joe Heck  
Member of Congress



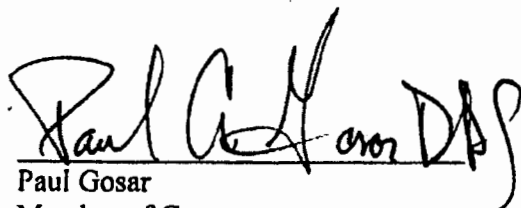
John Fleming  
Member of Congress



Mike McIntyre  
Member of Congress



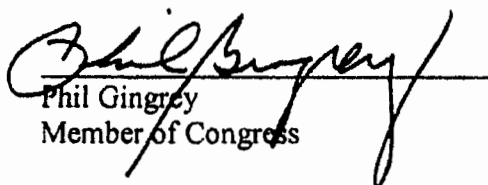
Mick Mulvaney  
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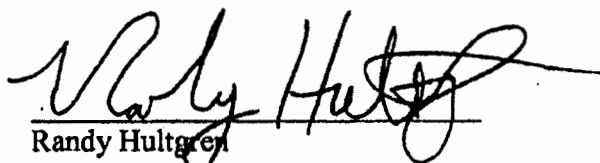
Paul Gosar  
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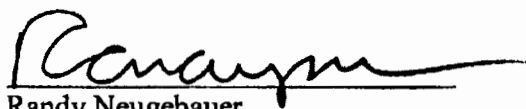
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Phil Gingrey  
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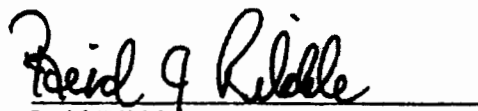
Randy Hultgren  
Member of Congress



Randy Neugebauer  
Member of Congress



Chip Cravaak  
Member of Congress



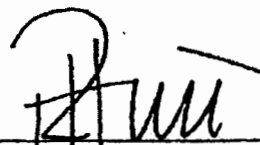
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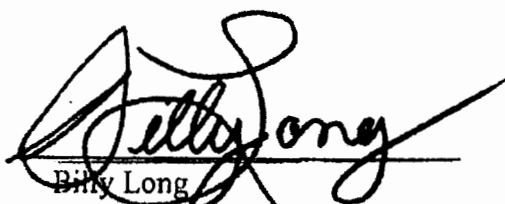
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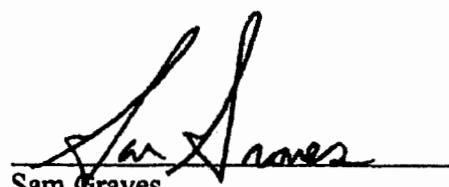
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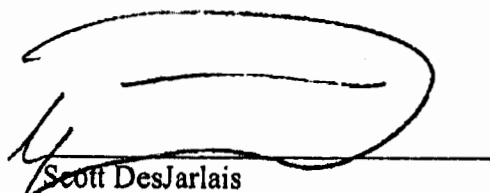
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Billy Long  
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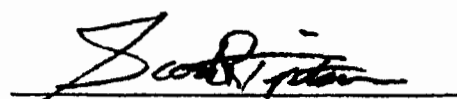
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Scott DesJarlais  
Member of Congress




Scott Rigell  
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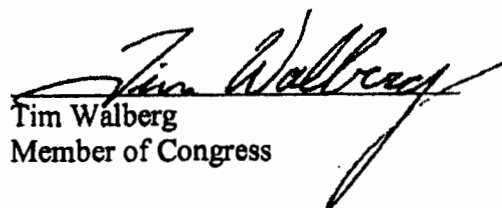
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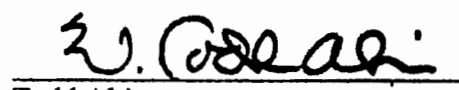
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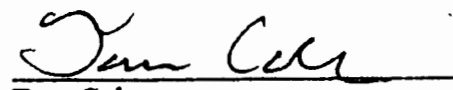
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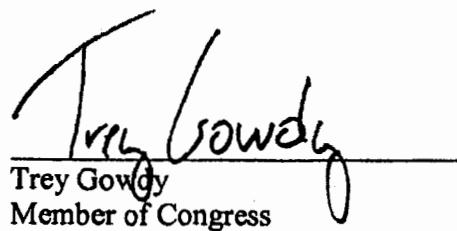
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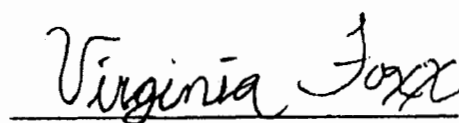
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Tom Cole  
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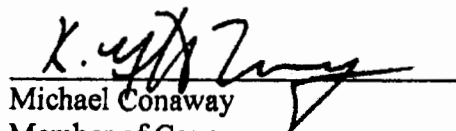
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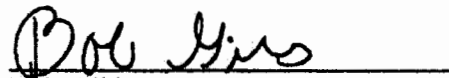



Virginia Foxx  
Member of Congress


  
John R. Carter  
Member of Congress


  
Timothy V. Johnson  
Member of Congress

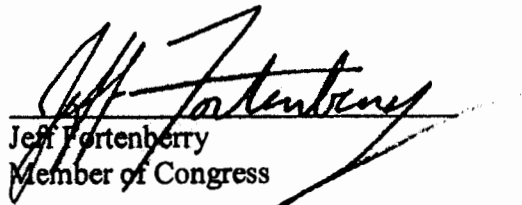
  
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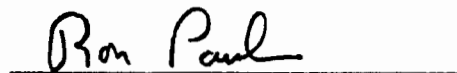
  
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Jeff Denham  
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Bill Flores  
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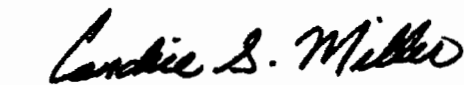
  
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Jeff Fortenberry  
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Dr. Ron Paul  
Member of Congress

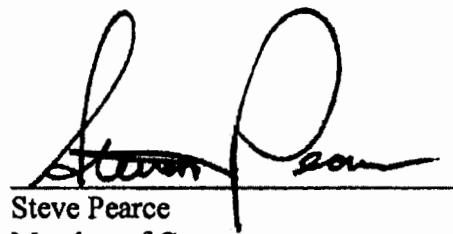
  
Mike Pompeo  
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Mike Rogers  
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Candice Miller  
Member of Congress



Walter B. Jones  
Member of Congress



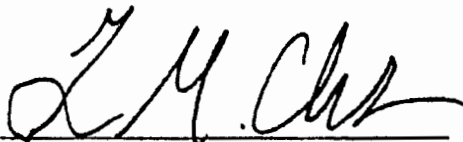
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Member of Congress



Chris Gibson  
Member of Congress



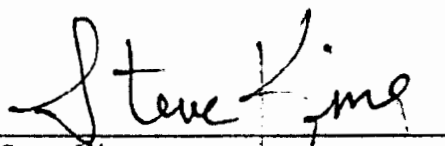
Rick Berg  
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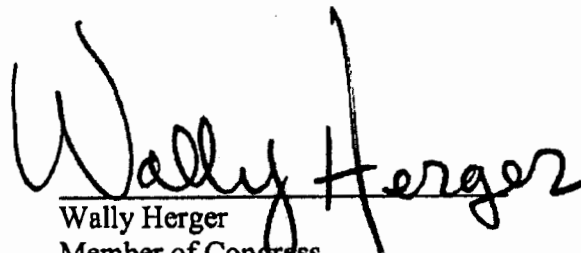
Tom McClintock  
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Marlin Stutzman  
Member of Congress



Steve King  
Member of Congress



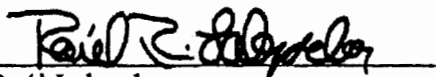
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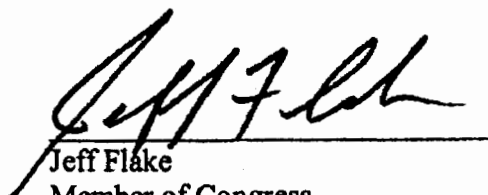
Blake Farenthold  
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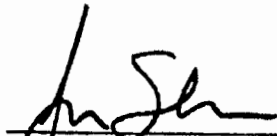
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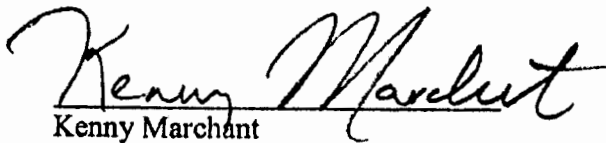
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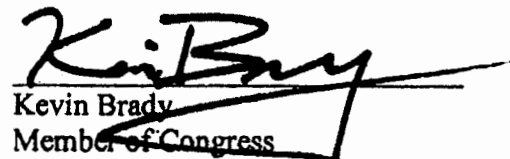


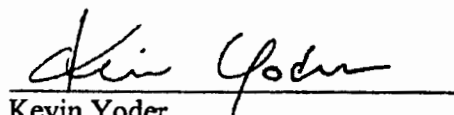
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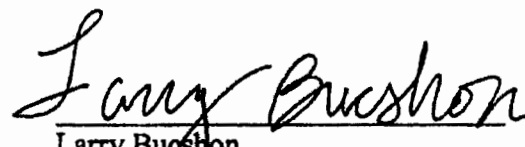
  
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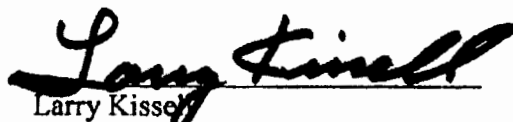
  
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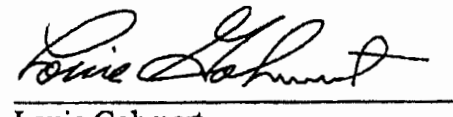
  
Kenny Marchant  
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Kevin Brady  
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Kevin Yoder  
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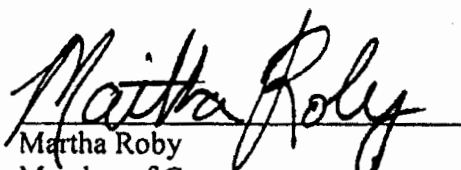
  
Larry Bucshon  
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Larry Kissel  
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Louie Gohmert  
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Lynn Jenkins  
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Mac Thornberry  
Member of Congress

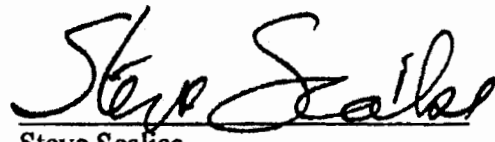
  
Martha Roby  
Member of Congress

  
Mike Coffman  
Member of Congress





Renee Ellmers  
Member of Congress



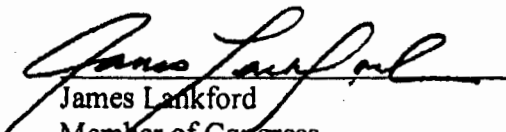
Steve Scalise  
Member of Congress




Francisco "Quico" Canseco  
Member of Congress



Spencer Bachus  
Member of Congress



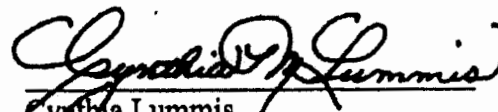
James Lankford  
Member of Congress



Todd Young  
Member of Congress



Ted Poe  
Member of Congress



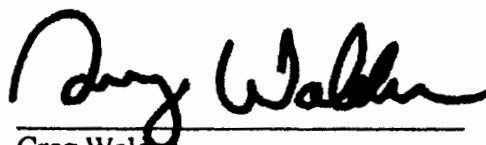
Cynthia Lummis  
Member of Congress



Robert Aderholt  
Member of Congress



Jo Ann Emerson  
Member of Congress



Greg Walden  
Member of Congress

David P. Roe

David P. Roe  
Member of Congress

Vicky Hartzler

Vicky Hartzler  
Member of Congress

Tom Reed NY 29

Tom Reed  
Member of Congress

Steven M. Palazzo

Steven M. Palazzo  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**MAY 10 2011**

OFFICE OF  
AIR AND RADIATION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington D.C. 20515

Dear Congressman Denham:

Thank you for your letter of March 29, 2011, co-signed by 100 of your colleagues, expressing your concerns over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

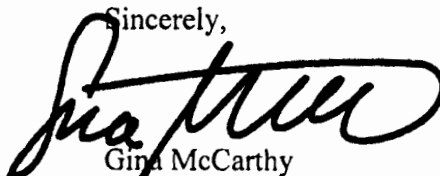
I appreciate the importance of NAAQS decisions to state and local governments, in particular to areas with agricultural communities, and I respect your perspectives and opinions. I also recognize the work that states have undertaken to improve air quality across the country. The NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture or rural roads). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and welfare effects of the pollutants for which they are set.

No final decisions have been made on revising the PM NAAQS. In fact, we have not yet released a formal proposal. Currently, we continue to develop options, including the option of retaining the current 24-hour coarse PM standard. To facilitate a better understanding of the potential impacts of PM NAAQS standards on agricultural and rural communities, the U.S. Environmental Protection Agency recently held six roundtable discussions around the country. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments will be fully considered as we proceed with our deliberations.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the scientific evidence as it pertains to health and environmental effects. Thus, the agency is prohibited from considering costs in setting the NAAQS. But cost can be – and is – considered in developing the control strategies to meet the standards (i.e., during the implementation phase). Furthermore, I want to assure you that the EPA does appreciate the importance of the decisions on the PM NAAQS to agricultural communities. We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities.

Again, the Administrator and I thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a large, sweeping flourish at the end.

Gina McCarthy  
Assistant Administrator

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

January 26, 2011

Nancy Sutley  
Chairwoman  
Council on Environmental Quality  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Dear Chairwoman Sutley,

We write to express our concerns and request your immediate attention regarding the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) and the Environmental Protection Agency's (EPA) flawed consultation process resulting in biological opinions (bi-ops) and regulations that will significantly restrict the use of critical crop protection tools in Washington, Oregon, Idaho, and California. A substantial portion of the fruits, vegetables, and grains that sustain not only the United States, but the world at large are grown in these states. Implemented in their current form, these bi-ops will force family farmers out of business and devastate rural communities and trade throughout the districts we represent, while crippling our food production capacity for the foreseeable future.

In 2002, a U.S. District Court judge ruled that the EPA did not adequately consult with NMFS regarding the impact of certain chemicals on endangered salmon populations, as required under the Endangered Species Act, when drafting pesticide, herbicide, and fungicide labels for 37 different products.

In response, in 2008, NMFS released its first biological opinion addressing three pesticides. Unfortunately, this bi-op ignores the best available science on the prevalence of chemicals in salmon spawning waterways, while expanding existing buffer zones so great that it would affect millions of acres in the Northwest and California, including a staggering 61 percent of farmland in Washington state and 55 percent in Oregon.

In a September 2008 letter to NMFS, the EPA's Director of Pesticide Programs expressed "serious questions and doubts about the support for NMFS' conclusion that these three pesticides jeopardize all of these species and adversely modify their critical

habitat." The letter goes on to state that NMFS provided "no basis" for its conclusion that the identified level of exposure would cause any harm to endangered species.

Despite these written concerns from a high level official in EPA, neither NMFS nor EPA allowed public comment before the bi-op became final. The agencies didn't even informally consult with the agricultural community regarding current practices and options to ensure that pesticides do not adversely affect endangered salmon populations.

We understand NMFS faces court-imposed deadlines to release the remaining bi-ops, and that a pending lawsuit seeks to force EPA's implementation of the first three. However, we are concerned that these agencies are not adequately addressing allegations in an April 2009 lawsuit that NMFS' first bi-op is arbitrary, capricious, includes defective modeling and analysis, fails to include the best scientific and commercial data, and violates the Administrative Procedures Act and the Endangered Species Act. We believe the accuracy of the science and analysis included in the bi-ops are vital to the integrity and defensibility of all future bi-ops, and that NMFS must correct any flaws that currently exist.

Furthermore, several lawsuits have now been filed by various interests in multiple federal circuit court jurisdictions relating to these pesticide consultations, including one last week that would, by some estimates, require over 28,000 consultations on hundreds of new bi-ops. We are concerned that confusion about the Administration's policy will likely result in conflicting court rulings, legal uncertainty, and additional lawsuits about the policy and scientific ramifications of these bi-ops. Better intra-agency coordination amongst these agencies and with the Department of Justice (DOJ), tasked with defending the government's position in these lawsuits, is needed immediately.

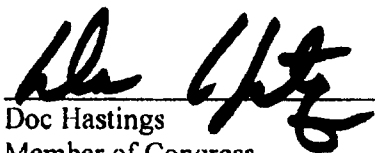
In our view, DOJ should seek an additional and reasonable extension of time with the court to ensure EPA, in consultation with the Department of Agriculture (USDA) and other state agencies, is able to ensure that the NMFS bi-ops are based on the best available science. In addition, more time would allow the public to comment on these important rules that will affect jobs and economic activity in the Northwest, California, and eventually, other areas of the nation.

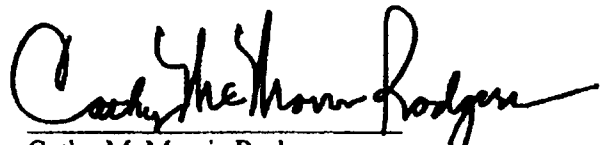
We are encouraged that the agencies held their first meeting with a small group of agricultural stakeholders on January 5 of this year, and we believe that an inclusive process should continue to move forward to improve future consultations and improve the science. We are hopeful that these meetings will also address our concerns on the first few bi-ops as well.

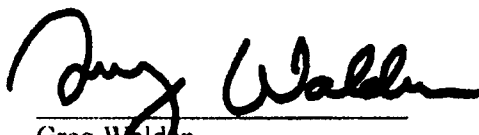
In addition, we request your involvement to ensure that NMFS, EPA, the Department of the Interior, USDA, and DOJ work together on this issue in a coordinated manner to strengthen the modeling and implement a scientifically sound bi-op that has been drafted through an open and transparent process. This must occur for the bi-ops affecting 19 products that remain to be drafted. However, and more importantly, intra-agency peer review is needed to reassess and address flaws with the existing three bi-ops.

At a time when our economy is already struggling, these regulations would cost jobs and impose a significant blow on the ability for the economy to recover. We urge you to halt moving forward with regulations that are based on questionable science and written with minimal opportunity for public input, and to take immediate steps to seek extensions of court-imposed deadlines to address these concerns. We stand ready to work with you to reverse the direction of this damaging policy.

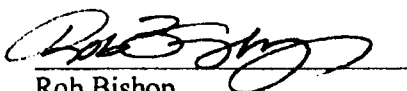
Sincerely,


  
Doc Hastings  
Member of Congress

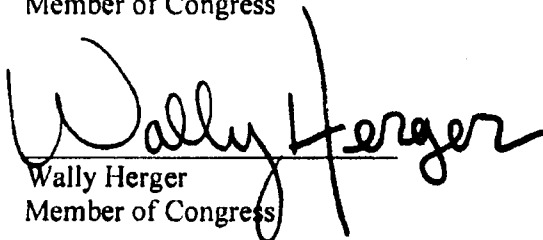
  
Cathy McMorris Rodgers  
Member of Congress

  
Greg Walden  
Member of Congress


  
Devin Nunes  
Member of Congress

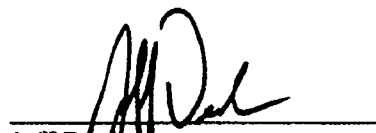
  
Rob Bishop  
Member of Congress

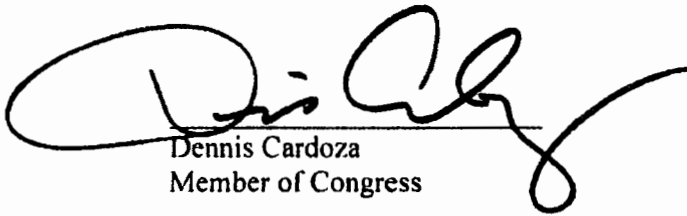
  
Tom McClintock  
Member of Congress

  
Wally Herger  
Member of Congress

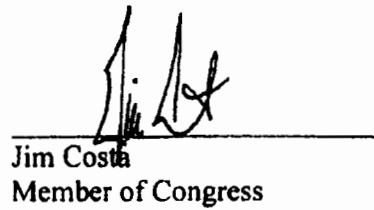
  
Rick Larsen  
Member of Congress

  
Paul Broun, M.D.  
Member of Congress

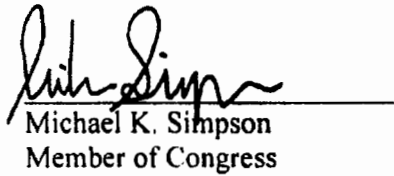
  
Jeff Denham  
Member of Congress



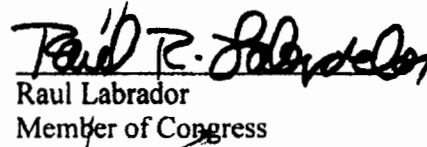
Dennis Cardoza  
Member of Congress



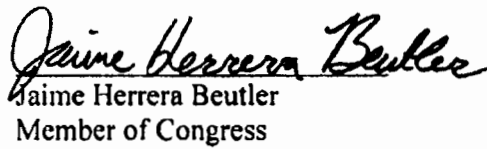
Jim Costa  
Member of Congress



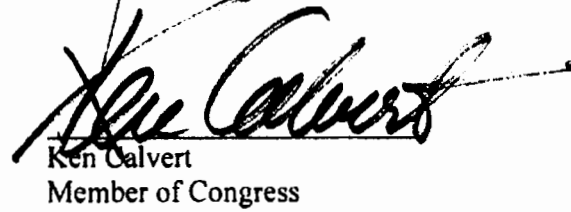
Michael K. Simpson  
Member of Congress



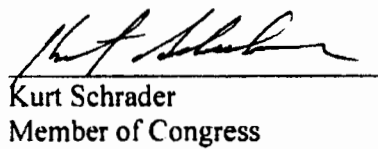
Raul Labrador  
Member of Congress



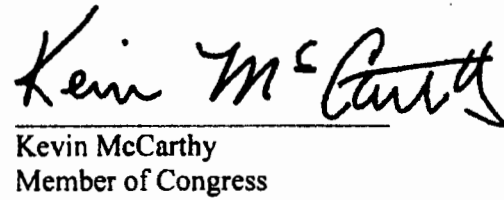
Jaime Herrera Beutler  
Member of Congress



Ken Calvert  
Member of Congress



Kurt Schrader  
Member of Congress



Kevin McCarthy  
Member of Congress

CC: Administrator Jackson, Administrator Lubchenco, Attorney General Holder,  
Secretary Vilsack





U.S. Environmental Protection Agency  
Office of Chemical Safety and Pollution Prevention  
Washington, D.C. 20460



National Oceanic and Atmospheric Administration  
Washington, D.C. 20230

April 4, 2011

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

We have received a copy of your January 26, 2011, letter to Nancy Sutley, Chair, Council on Environmental Quality regarding the interagency consultation process under Section 7 of the Endangered Species Act (ESA) and the potential impact on agricultural pesticides registrations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA).

As part of our ongoing efforts to implement our joint ESA responsibilities, the National Oceanic and Atmospheric Administration (NOAA) and the Environmental Protection Agency (EPA) are working together to address several issues, along with the U.S. Department of Agriculture and the Department of the Interior. EPA and NOAA are exploring a variety of process and scientific issues that, once resolved, will enhance our ability to meet our obligations in a timely and sound manner.

Effective regulatory processes need to be based on sound and transparent scientific methodology. NOAA has committed to incorporating increased transparency into its consultation processes. To that end, NOAA held meetings with stakeholders and state regulatory officials on January 5, 2011, February 7, 2011 and March 21, 2011. EPA is committed to improving opportunities for stakeholder involvement in the development of pesticide use limitations for the protection of federally listed threatened or endangered species. EPA is working on a public process that ensures all stakeholders receive timely notification of the availability of documents resulting from ESA consultations for review and comment.

Both EPA and NOAA acknowledge that court-ordered deadlines resulting from litigation make efforts to directly solicit stakeholder input more difficult. To help facilitate the public input process, EPA has provided a schedule on its website that indicates when drafts of biological opinions may be available to EPA. When EPA receives draft biological opinions from NOAA's National Marine Fisheries Service (NMFS), it posts these drafts at <http://www.regulations.gov> and on EPA's website at <http://www.epa.gov/espp>. If the schedule permits, EPA provides a 30-day comment period for pesticide users, registrants, and other interested parties on any draft Reasonable and Prudent Measures (RPMs) and Alternatives (RPAs) included in draft biological opinions. EPA is also encouraging input from state, tribal, and local governments on draft RPMs and RPAs to determine whether the alternatives or measures can be reasonably implemented and whether there are different measures that may

provide adequate protection but result in less impact to pesticide users. Comments received by EPA on other aspects of the draft biological opinions are forwarded to NOAA for its consideration in finalizing its document.

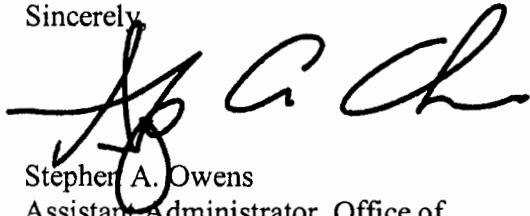
Finally, EPA and NOAA both believe that robust, independent advice on some of the scientific issues involved in these processes may be very useful to improving the scientific and technical foundations of the consultation processes and in achieving consistency within the government, transparency in our methodologies, and effective public service. To that end, we have asked the National Research Council (NRC) of the National Academy of Sciences to provide us with its independent advice on certain underlying scientific and technical issues surrounding the ESA-related responsibilities of EPA, NOAA Fisheries, and the U.S. Fish and Wildlife Service related to the use of pesticides. We are asking the NRC to explore the following six specific areas:

- **Best available scientific data and information.** Evaluate the various protocols used by EPA and NMFS in identifying what constitutes best available scientific data and information, with respect to validity, availability, consistency, clarity and utility.
- **Sub-lethal, indirect and cumulative effects.** Review the best scientific methods available for projecting these types of effects and consider options for development of additional methods that may be helpful in characterizing sub-lethal, indirect and cumulative effects.
- **Mixtures and inert ingredients.** Explore ways in which the effects on listed species of mixtures in formulated products or in the environment could be assessed. Further NRC will explore potential methodology for projecting the effects of inert ingredients such as adjuvants, surfactants and other additives.
- **Models.** Assess protocols governing the development of assumptions associated with model inputs and the use of sensitivity analyses to evaluate the impact of multiple assumptions on the interpretation of model results.
- **Interpretation of uncertainty.** Consider the selection and use of uncertainty factors to account for formulation toxicity, synergy, additivity, etc., and discuss how the choice of those factors affects the estimates of risk.
- **Geospatial information and datasets.** Consider what constitutes authoritative geospatial information, including spatial and temporal scale that most appropriately delineates habitat of the species and the duration of potential effects.

We are hopeful that the combined efforts noted above will serve to scientific quality and accuracy of the consultation processes associated with the registration of pesticides and herbicides under FIFRA, and further improve the transparency and predictability of the consultation processes under the ESA. We thank you for sharing your concerns and welcome continued comment and input from all interested parties.

If you have further questions, please feel free to contact either of us directly, or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753, or Ms. Tanya Dobrzynski of NOAA's Office of Legislative and Intergovernmental Affairs at (202) 482-7940.

Sincerely,



Stephen A. Owens  
Assistant Administrator, Office of  
Chemical Safety and Pollution Prevention  
U.S. Environmental Protection Agency



Larry Robinson  
Assistant Secretary for Conservation and  
Management  
National Oceanic and Atmospheric Administration

**Congress of the United States**  
Washington, DC 20510

May 8, 2014

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy,

As members of the Senate and Congressional Western Caucuses, we are contacting you regarding our opposition to the Environmental Protection Agency's (EPA) efforts to significantly expand federal regulatory authority under the Clean Water Act (CWA).

We have reviewed the proposed rule that you signed on March 25<sup>th</sup> and have concluded that the rule provides essentially no limit to CWA jurisdiction. This is despite the Supreme Court consistently recognizing that Congress limited the authority of the EPA and the Army Corps of Engineers under the CWA.

There has been strong opposition to EPA's approach due to the devastating economic impacts that a federal takeover of state waters would have. Additional and substantial regulatory costs associated with changes in jurisdiction and increased permitting requirements will result in bureaucratic barriers to economic growth, negatively impacting farms, small businesses, commercial development, road construction and energy production, to name a few.

The threat of ruinous penalties for alleged noncompliance with the CWA is also likely to become more common given the proposed rule's expansive approach. For example, the EPA's disputed classification of a small, local creek as a "water of the United States" could cost as much as \$187,500 per day in civil penalties for Wyoming resident Andrew Johnson. Similar uncertainty established under the proposed rule will ensure that expanding federal control over intrastate waters will substantially interfere with the ability of individual landowners to use their property.

We share the concerns expressed by the Western Governors Association regarding the lack of meaningful state consultation in crafting this rule. The Western Governors stated in a letter to you on March 25<sup>th</sup> that they –

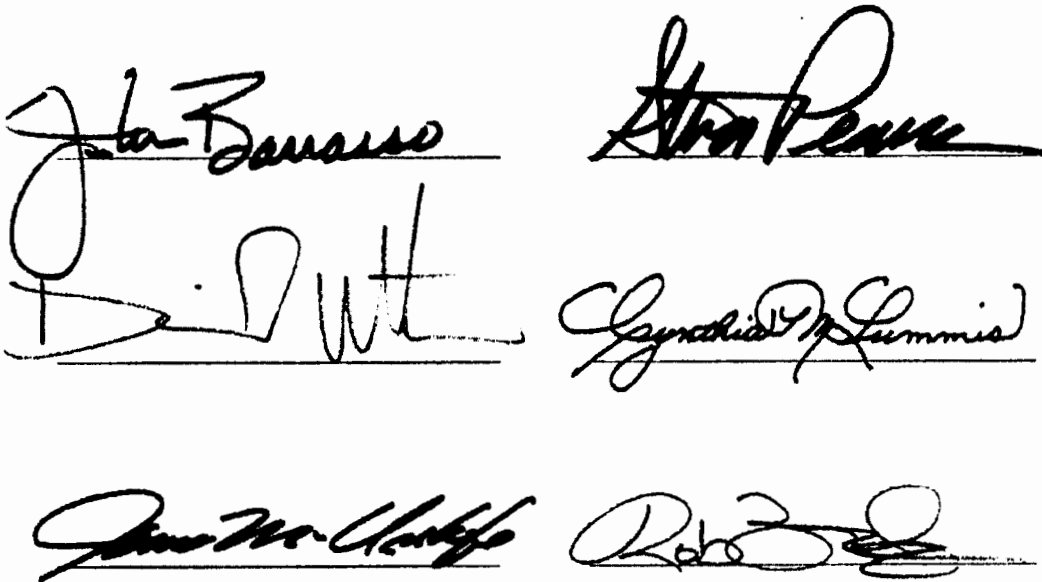
*"are concerned that this rulemaking was developed without sufficient consultation with the states and that the rulemaking could impinge upon state authority in water management."*

We fail to understand why the EPA has not adequately consulted our Governors about a rule that has such a significant impact on the economy of our states. For example, rural states in the West have sizeable ranching and farming operations that will be seriously impacted by this rule. Despite the claim that the Army Corps will exempt 53 farming practices as established by the Natural Resource Conservation Service, the list of 53 does not cover all existing agricultural practices. There are a number of farming and ranching practices, such as the application of pesticides, that are not covered on this list that occur every day in the West without penalty. Under this new proposed rule, it appears those farmers and ranchers will need to get a permit or be penalized if they continue to use those non-covered practices in new federal waters.

Congress has demonstrated strong opposition to past efforts to have the federal government control all wet areas of the states. During the recent consideration of the Water Resources Development Act (WRDA), a bipartisan group of Senators voted 52 to 44 to reject the EPA's CWA Jurisdiction Guidance, which would have also resulted in effectively unlimited jurisdiction over intrastate water bodies. Efforts to pass legislation to have the federal government control all non-navigable waters have also failed in past Congresses.

We urge you to change course by committing to operating under the limits established by Congress, recognizing the states' primary role in regulating and protecting their streams, ponds, wetlands and other bodies of water. We also again ask that you consider the economic impacts of your policies knowing that your actions will have serious impacts on struggling families, seniors, low-income households and small business owners.

Sincerely,



The block contains six handwritten signatures, arranged in three rows of two. The signatures are written in black ink on a white background. The first row shows two signatures, the second row shows two, and the third row shows two. The signatures are stylized and cursive, typical of personal correspondence.

Lee Buchanan

Mark Wayne Mullin

Tom Heller

JP

Wainwright

Rich Lujan

Pat Roberts

Dan Mang

Quinn Hatch

Walter B Jones

John Shim

Matt Luman

Mike Crayon

Scott R. Tipton

Ray Blend

K. W. Hill

Jerry Moran and V. Harris

Rob Fisher Cory Anderson

John Conyn Jeff Harris

John Harris Chris Harris

Mike Johnson Paul A. Harris

Jon E. Kisch ZMCSA

Mark B. Kaji Ken Carr

Doug Lombard Darin Noveck

Kent Starks

Sam Starks

Carl Brun

Sam Neale

Mike Colman

Raul R. Labrador

Steve Chaffetz

Alison Noem



**Letter Signers:**

In addition to Senator Barrasso, Rep. Pearce and Rep. Lummis, the attached letter was signed by Senators David Vitter (R-LA), Jim Inhofe (R-OK), Lisa Murkowski (R-AK), Dean Heller (R-NV), Mike Lee (R-UT), Pat Roberts (R-KS), Orrin Hatch (R-UT), John Thune (R-SD), Mike Crapo (R-ID), Roy Blunt (R-MO), Jerry Moran (R-KS), Deb Fischer (R-NE), John Cornyn (R-TX), John Hoeven (R-ND), Mike Johanns (R-NE), James Risch (R-ID) and Mike Enzi (R-WY) and Representatives Rob Bishop (UT-01), Markwayne Mullin (OK-01), Jeff Denham (CA-10), Mike Simpson (ID-02), Don Young (AK-AL), Walter Jones (NC-03), Matt Salmon (AZ-05), Scott Tipton (CO-03), Mike Conaway (TX-11), Mark Amodei (NV-02), Cory Gardner (CO-04), Jeff Duncan (SC-03), Chris Stewart (UT-02), Paul Gosar (AZ-04), Tom McClintock (CA-04), Kevin Cramer (ND-AL), Devin Nunes (CA-22), David Schweikert (AZ-06), Randy Neugebauer (TX-19), Raul Labrador (ID-01), Kristi Noem (SD-AL), Doug Lamborn (CO-05), Trent Franks (AZ-08), Paul Broun (GA-10), Mike Coffman (CO-06), Jason Chaffetz (UT-03).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 29 2015

OFFICE OF WATER

The Honorable Jeff Denham  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your May 8, 2014, letter to the U.S. Environmental Protection Agency regarding the U.S. Department of the Army's and the EPA's proposed rulemaking to define the scope of the Clean Water Act consistent with science and the decisions of the Supreme Court. The agencies' rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

It is important to emphasize that the proposed rule would reduce the scope of waters protected under the Clean Water Act compared to waters covered during the 1970s, 80s, and 90s to conform to decisions of the Supreme Court. The rule would limit Clean Water Act jurisdiction only to those types of waters that have a significant effect on downstream traditional navigable waters - not just any hydrologic connection. It would improve efficiency, clarity, and predictability for all landowners, including the nation's farmers, as well as permit applicants, while maintaining all current exemptions and protecting public health, water quality, and the environment. It uses the law and sound, peer-reviewed science as its cornerstones.

The agencies understand the importance of working effectively with the public as the rulemaking process moves forward. In order to afford the public greater opportunity to benefit from the EPA Science Advisory Board's reports on the proposed jurisdictional rule and on the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies extended the public comment period on the proposed rule to November 14, 2014.

During the public comment period, the agencies met with stakeholders across the country to facilitate their input on the proposed rule. The agencies talked with a broad range of interested groups including farmers, businesses, states and local governments, water users, energy companies, coal and mineral mining groups, and conservation interests. The EPA conducted a second small business roundtable to facilitate input from the small business community, which featured more than 20 participants that included small government jurisdictions as well as construction and development, agricultural, and mining interests. The agencies also engaged in extensive outreach to our state partners - including Western states - since the proposed rule was published. We agree that states play a crucial role in implementing the Clean Water Act, and that is why we were in close communication with stakeholders such as the Western Governors' Association, Western States Water Council, Association of Clean Water Administrators, and Environmental Council of the States. We appreciated the dialogue with Western

states during the public comment period, which enabled us to share information about the proposed rule and to ensure that the critical interests of states are reflected in our rulemaking process.

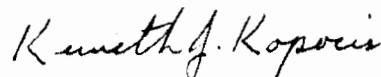
Since releasing the proposal in March, the EPA and the Corps conducted unprecedented outreach to a wide range of stakeholders, holding nearly 400 meetings all across the country to offer information, listen to concerns, and answer questions. The agencies completed a review by the Science Advisory Board on the scientific basis of the proposed rule and will ensure the final rule effectively reflects its technical recommendations. These actions represent the agencies' commitment to provide a transparent and effective opportunity for all interested Americans to participate in the rulemaking process.

Finally, your letter also raises questions regarding the agencies' interpretive rule regarding the applicability of Clean Water Act Section 404(f)(1)(A). On December 16, 2014, President Obama signed H.R. 83, the Consolidated and Further Continuing Appropriations Act, 2015, which instructs the EPA and the Department of the Army to withdraw the agencies' interpretive rule. The EPA and the Army will follow the statutory directive and withdraw the interpretive rule, a rule intended to encourage conservation and provide farmers with a simpler way to take advantage of existing exemptions from Clean Water Act dredge and fill permits. Withdrawal of the interpretive rule does not impact the agencies' work to finalize their rulemaking to define the scope of the Clean Water Act.

America thrives on clean water. Clean water is vital for the success of the nation's businesses, agriculture, energy development, and the health of our communities. We are eager to define the scope of the Clean Water Act so that it achieves the goals of protecting clean water and public health, and promoting jobs and the economy.

Thank you again for your letter. We look forward to working with Congress as our Clean Water Act rulemaking effort moves forward. Please contact me if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,

A handwritten signature in dark ink, reading "Kenneth J. Kopocis". The signature is written in a cursive style with a large, stylized "K" and "J".

Kenneth J. Kopocis  
Deputy Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

June 30, 2011

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army  
for Civil Works  
108 Army Pentagon  
Room 3E446  
Washington, DC 20310-0108

Dear Administrator Jackson and Assistant Secretary Darcy:

We are writing to urge that the Environmental Protection Agency (EPA) and Army Corps of Engineers promptly terminate any attempt to adopt or enforce any change in jurisdiction to waters under the Clean Water Act (CWA), unless and until Congress gives you the proper authority to do so.

The proposed 'guidance' introduced by the EPA and Army Corps on April 27, 2011 will substantively change federal policy with respect to which waters fall under the jurisdiction of the CWA, significantly increasing the scope of the federal government's power to regulate waters. Furthermore, it will significantly expand the federal government's regulatory reach on private property.

As a result, constituents in our states will be subject to federal enforcement of onerous permitting requirements that demand a substantial expenditure of time and money. Even where jurisdiction is in question, the federal agencies have shifted the burden to landowners and permit applicants to establish that jurisdiction is not appropriate.

We also believe that the decision to issue guidance on this topic, as opposed to a notice-and-comment rulemaking, violates requirements of the Administrative Procedures Act, which is designed to ensure public input and a full assessment of the economic impacts before making any final agency decisions. Despite repeated claims by the agencies that they would undertake a formal rulemaking, they have not.

Legislative attempts to expand this authority have been met with strong bipartisan resistance in previous Congresses and, in April of this year, a bipartisan letter signed by 170 Members of Congress was sent to the EPA and Army Corp of Engineers. The letter expressed serious concerns about the expansion of federal jurisdiction without following the proper rulemaking process.

There is no doubt that the extent of waters over which the agencies assert jurisdiction under the CWA will increase with this guidance. This expansion of jurisdiction goes beyond what Congress intended under the CWA and beyond the Supreme Court's decisions in *Rapanos* and *SWANCC*. Furthermore, the guidance will have material economic impacts, which EPA itself has acknowledged. The agencies, however, have failed to provide an adequate economic impact analysis in light of the broad scope of changes encompassed by the guidance.

The Department of the Interior, as you know, created a 'wild lands' classification last year—without any congressional authority to do so. Members of the Western Caucus swiftly acted to defund the program in the FY11 appropriations bill. Similar threats to usurp congressional authority, including the aforementioned guidance, are already facing similar defunding efforts in the Appropriations Committee. As such, we urge your prompt termination of any attempt to adopt or enforce any change in jurisdiction to waters under the Clean Water Act, unless and until Congress gives you the proper authority to do so.

**Congress of the United States**  
**Washington, DC 20515**

While you are considering this request, we also urge that you extend by 90 days the comment period on the proposed guidance regarding identification of waters protected by the CWA. Although we do not believe you have any authority to issue such guidance, those who will be heavily impacted have not had an acceptable amount of time to digest and respond to this complex and far-reaching proposal. If you believe, as we do, that public input is important to developing sound public policy, then you will grant them the time necessary to respond.

Thank you for your time and attention to our request. We look forward to your expeditious reply.

Sincerely,

  
Congressman Dean Rehberg

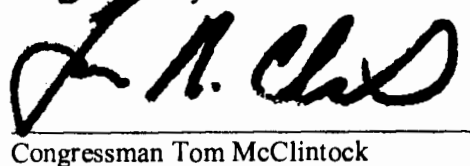
  
Congressman Steve Pearce

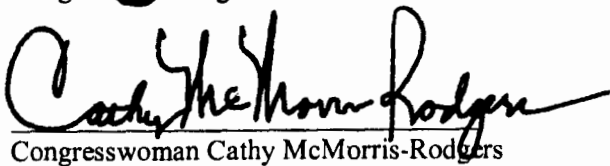
  
Congressman Mike Simpson

  
Congressman Rob Bishop

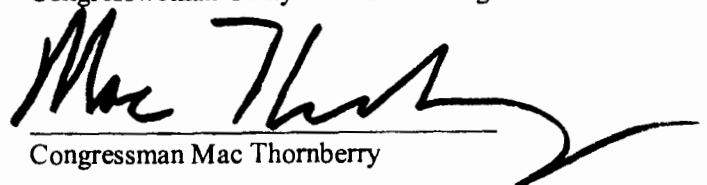
  
Congresswoman Cynthia Lummis

  
Congressman Greg Walden

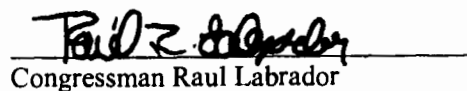
  
Congressman Tom McClintock

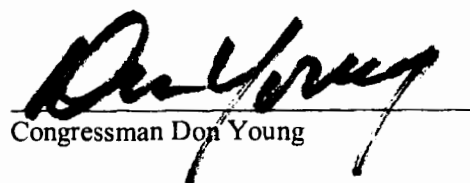
  
Congresswoman Cathy McMorris-Rodgers

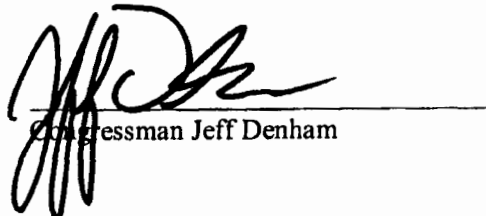
  
Congressman Jason Chaffetz

  
Congressman Mac Thornberry

  
Congressman Mike Coffman

  
Congressman Raul Labrador

  
Congressman Don Young

  
Congressman Jeff Denham



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**AUG 12 2011**

The Honorable Jeff Denham  
United States House of Representatives  
Washington, DC 20515

OFFICE OF  
WATER

Dear Congressman Denham:

Thank you for your letter of June 30, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and Assistant Secretary of the Army for Civil Works (Army) Jo-Ellen Darcy regarding draft guidance clarifying the definition of "waters of the United States." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the Agency's mission of assuring effective protection for human health and water quality for all Americans. As the senior policy manager of EPA's national water program, I appreciate the opportunity to respond to your letter.

Your letter expresses concern that the draft guidance significantly increases federal authority over waters subject to protection under the CWA. I want to emphasize that the guidance cannot change existing requirements of the law nor alter the geographic scope of waters subject to protection under the CWA. The guidance must also be consistent with the relevant decisions of the Supreme Court. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements.

Your letter also states that publication of the draft guidance violates the Administrative Procedures Act (APA). The EPA and Army have worked very hard to develop the draft guidance in a transparent manner that meets all requirements of the law. We consulted with the Department of Justice, who concurs that the policy interpretations articulated in the draft guidance do not constitute rulemaking and are not subject to the rulemaking provisions of the APA. Although guidance does not have the force of law, it is frequently used by Federal agencies to explain and clarify their understandings of existing requirements. In addition, although not required for the publication of guidance, the EPA and Army developed an economic analysis to help the public understand the implications of application of the draft guidance.

In the May 2, 2011, Federal Register Notice, the EPA and Army said that they expect to propose revisions to existing regulations to further clarify, beyond the bounds of the draft guidance, which waters are subject to Clean Water Act jurisdiction, consistent with the Supreme Court's decisions. The agencies are currently working together with the goal of proposing revised regulations in the coming months.

Your letter requests a 90 day extension of the comment period on the draft guidance. EPA and the Corps consider public input as critically important to developing sound public policy. The agencies published the proposed guidance in the Federal Register on May 2, 2011, and initiated a 60-day public comment period, which was extended an additional 30 days to July 31, 2011. The agencies are committed to an

inclusive, transparent review and comment process, ensuring that all interested parties have an effective opportunity to provide input on the draft guidance.

I appreciate the opportunity to respond to your letter. I hope you will feel free to contact me if you have additional questions or concerns, or your staff may call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nancy K. Stoner', with a stylized, looping flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

November 4, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Administration  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator McCarthy:

We are writing in support of expedient consideration of an application for ethyl formate as a fumigant (EPA File Symbol 38719-I). This issue is of great importance to U.S. agricultural exports and the thousands of fruit and citrus growers, packers and shippers across the country.

In an effort to comply with the Montreal Protocol on Ozone Depletion, and requests from our trading partners, growers and packers have begun to phase out the use of methyl bromide as a fumigant. Laboratory tests have shown ethyl formate to be an effective replacement that kills pests in food shipments and does not contribute to ozone depletion.

Researchers have found ethyl formate to be a promising post-harvest treatment particularly for insect pests such as bean thrips and Fuller's rose beetles. The U.S. Food and Drug Administration considers ethyl formate to be Generally Recognized As Safe (GRAS) and it is currently used in a number of food products as a flavoring agent.


Timely access to this safe fumigant is critical to maintaining and expanding U.S. fruit and citrus trade exports in markets like Australia and Korea. Without approval, U.S. exports to these countries could be drastically reduced or ceased entirely, causing significant losses for growers. Several agricultural industry groups consider this matter to be very time-sensitive.

Furthermore, under the Pesticide Registration Improvement Act (PRIA 2), companies pay a substantial user fee to ensure timely consideration of applications for pesticides. Maintaining a firm timeline is crucial to both companies and their customers as they plan for the future.

We are concerned about any additional delays in the consideration of this application, and the prospect of further delays in the availability of a product that is important to facilitating U.S. exports. In light of FDA's GRAS designation, we respectfully request that you complete the review of the application as expeditiously as possible and keep us informed of the expected timeline for completing the review. Thank you for your consideration of our request.

Sincerely,

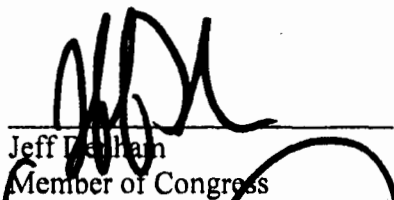




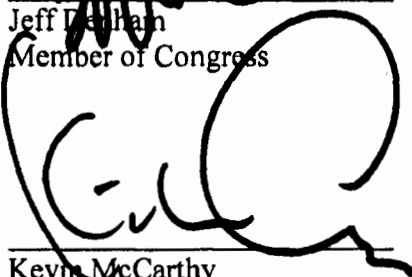
Ken Calvert  
Member of Congress



Jim Costa  
Member of Congress



Jeff Delaham  
Member of Congress



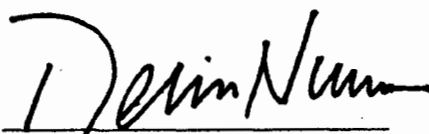
Kevin McCarthy  
Member of Congress



David G. Valadao  
Member of Congress



Leonard Lance  
Member of Congress



Devin Nunes  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 10 2014

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

Dear Congressman Denham:

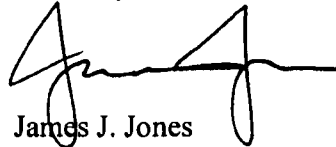
Thank you for your letter of November 4, 2013, to the U.S. Environmental Protection Agency Administrator Gina McCarthy regarding your support for an expedited consideration of the application for ethyl formate as a fumigant alternative to methyl bromide. I want to assure you that the EPA shares your interest in finding safe and effective alternatives to methyl bromide and we are committed to completing a thorough review of this application as expeditiously as possible. I am pleased to have the opportunity to respond to your concerns.

On March 2, 2012, the EPA received an application for a product containing ethyl formate and an associated tolerance petition. The EPA completed a full preliminary screen for these applications and determined they were seriously deficient because of missing and/or inadequate data required to evaluate the safety of the product for human health and the environment. Consistent with the Pesticide Registration Improvement Act, the EPA requested the company submit additional data. The company requested a due date extension to address the scientific deficiencies determined by the EPA.

When there are deficiencies in application packages due to missing or inadequate data to evaluate safety, registration decision due dates typically need to be renegotiated. Earlier this year, the EPA asked for and the company agreed to resubmit a full application. The EPA and the company renegotiated the PRIA due date to October 2014. Though the resubmitted application package is still being processed by the agency, the EPA's Office of Pesticide Programs has already started an initial review.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Mr. Sven-Erik Kaiser in the EPA's Office of Congressional and Intergovernmental Relations at [Kaiser.sven-erik@epa.gov](mailto:Kaiser.sven-erik@epa.gov) or (202) 566-2753.

Sincerely,



James J. Jones  
Assistant Administrator

AL - 000 - 4733

JEFF DENHAM  
10TH DISTRICT, CALIFORNIA

E-MAIL VIA WEBSITE:  
Denham.house.gov

**Congress of the United States**  
**House of Representatives**  
Washington, DC

January 29, 2014

HOUSE AGRICULTURE COMMITTEE

HOUSE TRANSPORTATION AND  
INFRASTRUCTURE COMMITTEE

CHAIRMAN, SUBCOMMITTEE ON RAILROADS,  
PIPELINES AND HAZARDOUS MATERIALS

HOUSE VETERANS' AFFAIRS COMMITTEE

The Honorable Sarah "Sally" Jewell  
Secretary  
U.S. Department of the Interior  
1849 C Street, NW, Room 6156  
Washington, DC 20240

The Honorable Regina A. "Gina" McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3000  
Washington, DC 20460

The Honorable Penny S. Pritzker  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, NW  
Washington, DC 20230

Mr. John Laird  
Secretary  
California Natural Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

Dear Secretaries Jewell, Pritzker and Laird, and Administrator McCarthy:

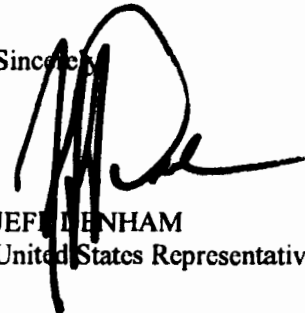
The recent release of the Bay-Delta Conservation Plan (BDCP) and the associated Environmental Impact Report and Environmental Impact Statement (EIR/EIS) marks the first time the public can truly review the Plan. Constituents of mine, many of which reside within the Sacramento-San Joaquin Bay-Delta region, believe they have not been provided with a complete and detailed description of the project, an assessment and characterization of the potential impacts, and the specific elements of a comprehensive mitigation strategy to compensate for the impacts of the project.

The BDCP and the Public Review Draft EIR/EIS amount to nearly 40,000 pages. Given the size, complexity and potential impacts of the project, the 120-day public comment period I feel is inadequate.

On behalf of concerned constituents within my district I respectfully request that the public comment period for the BDCP EIR/EIS be extended beyond the current 120-day comment period.

Thank you for your consideration.

Sincerely,



JEFF DENHAM  
United States Representative

Cc: San Joaquin County  
San Luis & Delta-Mendota Water Authority

MODESTO  
4701 SISK ROAD, SUITE 202  
MODESTO, CA 95356  
PHONE: (209) 579-5458  
FAX: (209) 579-5028

CONNECT  
YOUTUBE.COM/REPJEFFDENHAM  
TWITTER.COM/REPJEFFDENHAM  
FACEBOOK.COM/REPJEFFDENHAM

WASHINGTON, DC  
1730 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
PHONE: (202) 225-4540  
FAX: (202) 225-3402



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 18 2014

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

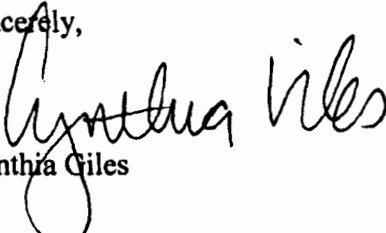
Dear Congressman Denham:

Thank you for your January 29, 2014, letter to Environmental Protection Agency (EPA) Administrator Gina McCarthy, requesting an extension of the public comment period for the Bay-Delta Conservation Plan and associated Environmental Impact Report and Environmental Impact Statement.

As a cooperating agency, EPA is continuing to work with the U.S. Departments of Interior and Commerce, as well as the California Natural Resources Agency, on this important effort. On February 21, 2014, the lead federal and state agencies extended the public comment period by 60 days. The review period now totals 180 days, from December 13, 2013 to June 13, 2014.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

  
Cynthia Giles

AL-15-000-2012

STEVE DAINES  
MONTANA

206 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 226-3211

Congress of the United States  
House of Representatives  
Washington, DC 20515-2600

November 13, 2014

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue Northwest  
Washington, D.C. 20460

Dear Administrator McCarthy:

We respectfully request a 90-day comment period extension for the EPA and Army Corps of Engineers revision to the Clean Water Act definition of "Waters of the United States" proposed on April 21, 2014.

As you are aware, this proposal would expand federal jurisdiction under the CWA to include manmade conveyances, ditches, and ephemeral water streams. An expansion of this magnitude seems to give limitless jurisdiction and would drastically impact many of our constituents.

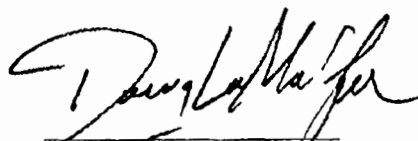
On September 9 2014, the House of Representatives passed H.R. 5078, the *Waters of the United States Regulatory Overreach Protection Act* with strong bipartisan support. This vote was a powerful reflection of the concerns of the American people about this proposal. We believe it is appropriate and critical for the EPA to extend the comment period to allow more Americans to fully express their views.

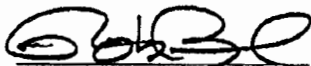
We appreciate your attention to this matter and look forward to your timely response.

Sincerely,

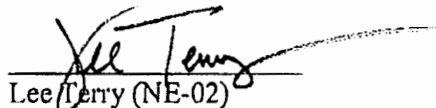


Steve Daines (MT-Al)  
Member of Congress

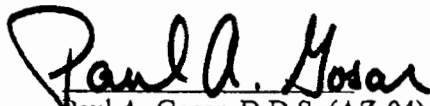
  
Doug LaMalfa (CA-01)  
Member of Congress



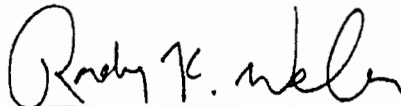
Rob Bishop (UT-01)  
Member of Congress



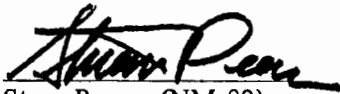
Lee Terry (NE-02)  
Member of Congress



Paul A. Gosar, D.D.S. (AZ-04)  
Member of Congress



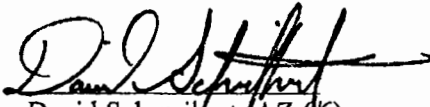
Randy Weber (TX-14)  
Member of Congress



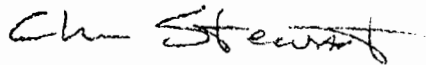
Steve Pearce (NM-02)  
Member of Congress



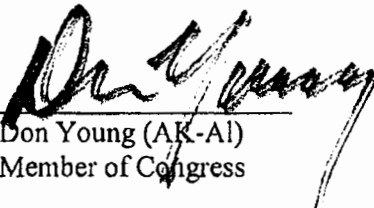
Tom McClintock (CA-04)  
Member of Congress



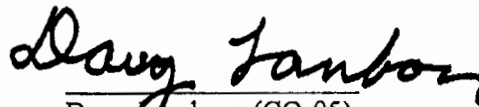
David Schweikert (AZ-06)  
Member of Congress



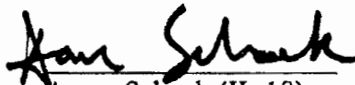
Chris Stewart (UT-02)  
Member of Congress



Don Young (AK-Al)  
Member of Congress



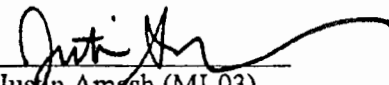
Doug Lamborn (CO-05)  
Member of Congress



Aaron Schock (IL-18)  
Member of Congress



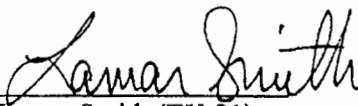
Mike Simpson (ID-02)  
Member of Congress



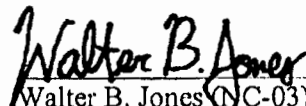
Justin Amash (MI-03)  
Member of Congress



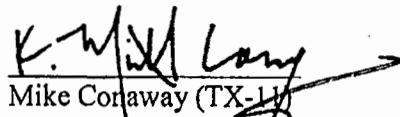
Jaime Herrera Beutler (WA-03)  
Member of Congress

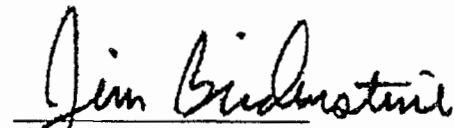


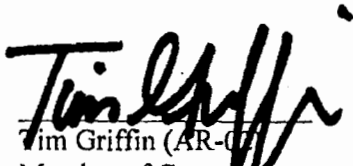
Lamar Smith (TX-21)  
Member of Congress

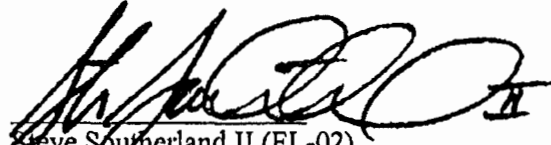


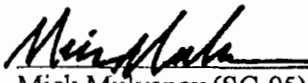
Walter B. Jones (NC-03)  
Member of Congress

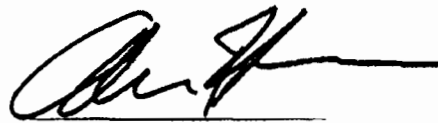
  
Mike Conaway (TX-11)  
Member of Congress


  
Jim Bridenstine (OK-01)  
Member of Congress

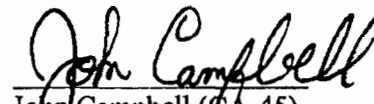
  
Tim Griffin (AR-05)  
Member of Congress

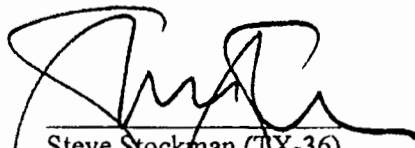
  
Steve Southerland II (FL-02)  
Member of Congress


  
Mick Mulvaney (SC-05)  
Member of Congress


  
Adam Kinzinger (IL-16)  
Member of Congress

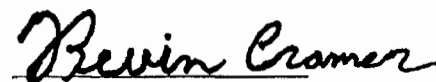
  
Dan Benishek M.D. (MI-01)  
Member of Congress


  
John Campbell (CA-45)  
Member of Congress

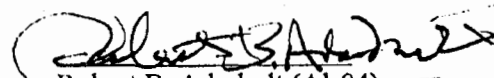
  
Steve Stockman (TX-36)  
Member of Congress

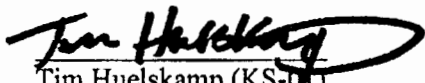
  
Mike Kelly (PA-03)  
Member of Congress

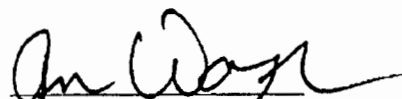
  
Markwayne Mullin (OK-02)  
Member of Congress

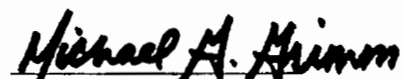
  
Kevin Cramer (ND-01)  
Member of Congress

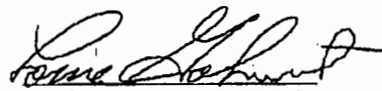
  
Joe Barton (TX-06)  
Member of Congress

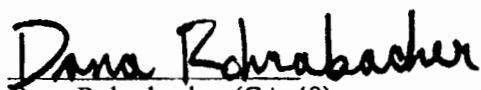
  
Robert B. Aderholt (AL-04)  
Member of Congress


  
Tim Huelskamp (KS-01)  
Member of Congress

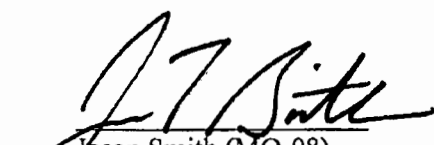
  
Art Wagner (MO-02)  
Member of Congress

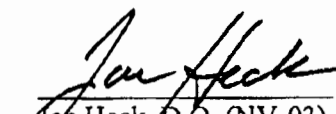
  
Michael Grimm (NY-11)  
Member of Congress

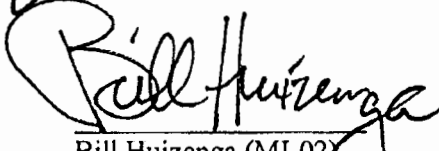
  
Louie Gohmert (TX-01)  
Member of Congress

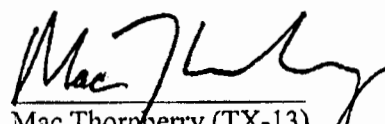
  
Dana Rohrabacher (CA-48)  
Member of Congress

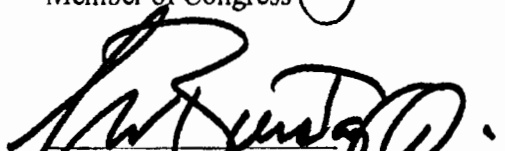
  
David G. Valadao (CA-21)  
Member of Congress

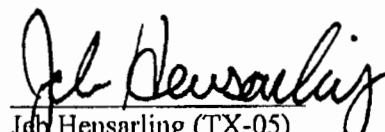
  
Jason Smith (MO-08)  
Member of Congress

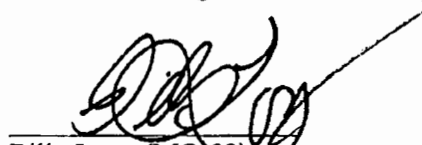
  
Joe Heck, D.O. (NV-03)  
Member of Congress

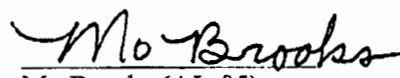
  
Bill Huizenga (MI-02)  
Member of Congress


  
Mac Thornberry (TX-13)  
Member of Congress


  
Charles W. Boustany Jr., M.D. (LA-03)  
Member of Congress

  
Jeb Hensarling (TX-05)  
Member of Congress

  
Billy Long (MO-02)  
Member of Congress

  
Mo Brooks (AL-05)  
Member of Congress

  
David McKinley, P.E. (WV-01)  
Member of Congress

  
Tom Marino (PA-10)  
Member of Congress





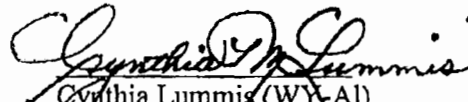
Adrian Smith (NE-03)  
Member of Congress



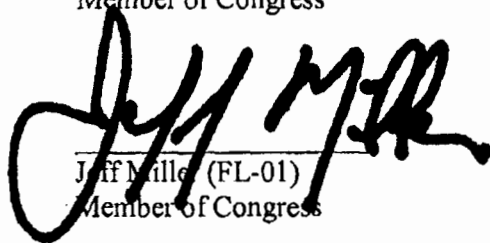
Mark Amodei (NV-02)  
Member of Congress



Cathy McMorris Rodgers (WA-05)  
Member of Congress



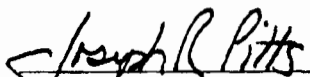
Cynthia Lummis (WY-A1)  
Member of Congress



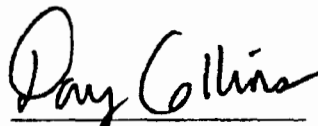
Jeff Miller (FL-01)  
Member of Congress



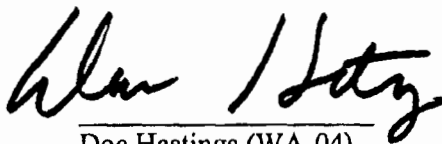
Lou Barletta (PA-11)  
Member of Congress




Joseph Pitts (PA-16)  
Member of Congress



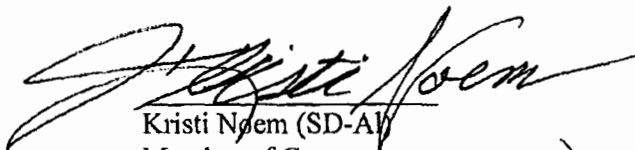
Doug Collins (GA-09)  
Member of Congress



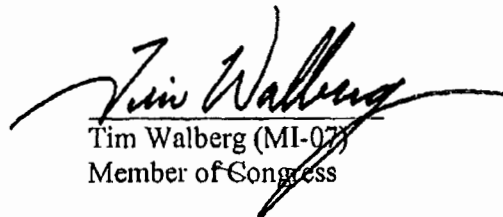
Doc Hastings (WA-04)  
Member of Congress



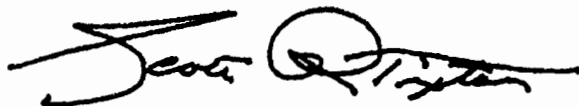
Rick Crawford (AR-01)  
Member of Congress



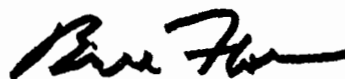
Kristi Noem (SD-A1)  
Member of Congress



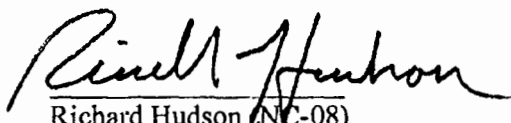
Tim Walberg (MI-07)  
Member of Congress



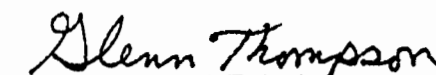
Scott Tipton (CO-03)  
Member of Congress



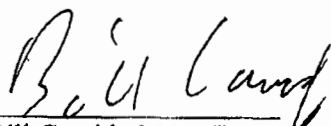
Bill Flores (TX-17)  
Member of Congress

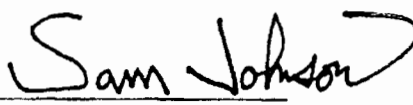


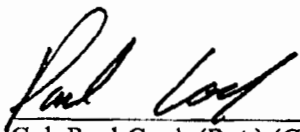
Richard Hudson (NC-08)  
Member of Congress

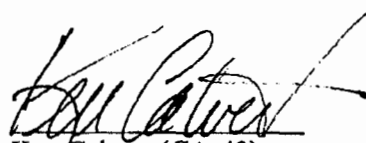


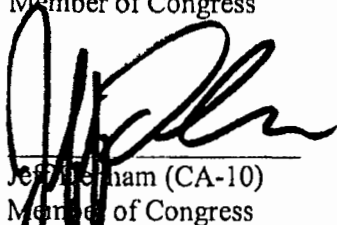
Glenn "G.T." Thompson (PA-05)  
Member of Congress

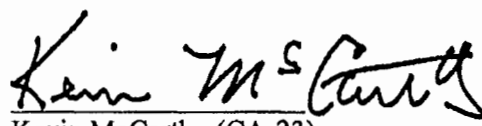
  
Bill Cassidy M.D. (LA-06)  
Member of Congress

  
Sam Johnson (TX-03)  
Member of Congress

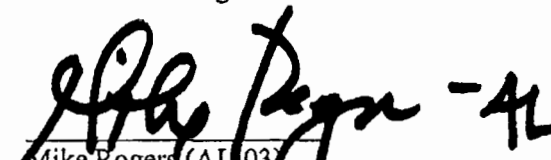
  
Col. Paul Cook (Ret.) (CA-08)  
Member of Congress

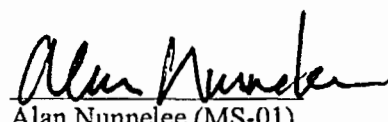
  
Ken Calvert (CA-42)  
Member of Congress

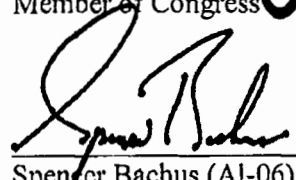
  
Jesse Beltram (CA-10)  
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Kevin McCarthy (CA-23)  
Member of Congress

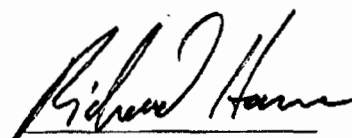
  
Dave Reichert (WA-08)  
Member of Congress

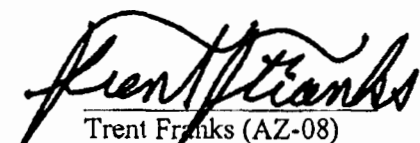
  
Mike Rogers (AL-03)  
Member of Congress

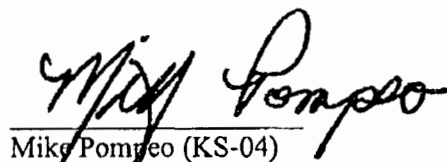
  
Alan Nunnelee (MS-01)  
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Spencer Bachus (AL-06)  
Member of Congress

  
Chris Collins (NY-27)  
Member of Congress

  
Richard Hanna (NY-22)  
Member of Congress

  
Trent Franks (AZ-08)  
Member of Congress

  
Mike Pompeo (KS-04)  
Member of Congress

*Raúl R. Labrador*

Raúl Labrador (ID-01)  
Member of Congress

*Thomas Massie*

Thomas Massie (KY-04)  
Member of Congress

*Kevin Yoder*

Kevin Yoder (KS-03)  
Member of Congress

*Rodney Davis*

Rodney Davis (IL-13)  
Member of Congress

*Marsha Blackburn*

Marsha Blackburn (TN-07)  
Member of Congress

*Ted S. Yoho*

Ted S. Yoho (FL-03)  
Member of Congress

*Lynn Jenkins*

Lynn Jenkins (KS-02)  
Member of Congress

*Stephen Fincher*

Stephen Fincher (TN-07)  
Member of Congress

*Joe Wilson*

Joe Wilson (SC-02)  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 29 2015

The Honorable Jeff Denham  
House of Representatives  
Washington, D.C. 20515

OFFICE OF  
WATER

Dear Congressman Denham:

Thank you for your November 13, 2014, letter to the U.S. Environmental Protection Agency requesting an extension of the public comment period for the U.S. Department of the Army's and the EPA's proposed rulemaking to define the scope of the Clean Water Act consistent with science and the decisions of the Supreme Court. The agencies' rulemaking process is among the most important actions we have underway to ensure reliable sources of clean water on which Americans depend for public health, a growing economy, jobs, and a healthy environment.

The EPA and the U.S. Army Corps of Engineers published the proposed rule in the Federal Register on April 21, 2014, and originally provided for a 91-day public comment period. The agencies subsequently extended the public comment period an additional 91 days until October 20, 2014. In order to afford the public greater opportunity to benefit from the EPA Science Advisory Board's reports on the proposed jurisdictional rule and on the EPA's draft scientific report, "Connectivity of Streams and Wetlands to Downstream Waters: A Review and Synthesis of the Scientific Evidence," and to respond to requests from the public for additional time to provide comments on the proposed rule, the agencies again extended the public comment period until November 14, 2014, for a total length of 207 days.

The agencies believe that the 207-day public comment period provided the public with sufficient opportunity to review the proposed rule, the draft Connectivity Report, and the SAB's review of the draft Connectivity Report and the scientific basis of the proposed rule. As a result, the agencies did not further extend the public comment period beyond November 14, 2014. Now that the comment period has closed, the agencies are currently working to review the public comments we have received on the proposed rule as we work to develop a final rule.

Thank you again for your letter. We look forward to working with Congress as our Clean Water Act rulemaking effort moves forward. Please contact me if you have additional questions on this issue, or your staff may contact Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at [borum.denis@epa.gov](mailto:borum.denis@epa.gov) or (202) 564-4836.

Sincerely,

A handwritten signature in black ink, reading "Kenneth J. Kopocis".

Kenneth J. Kopocis  
Deputy Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

May 23, 2011

Administrator Lisa Jackson  
Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Jackson,

The U.S. Court of Appeals for the Ninth Circuit has reaffirmed its ruling of last August that forest roads are "point sources" as a matter of law and that EPA regulations require a discharge permit under section 402 of the Clean Water Act. The ruling first invalidates a 35-year old rule that exemplified a flexible and effective approach to the regulation of water quality -- the definition of forest management identifying appropriate point source and nonpoint source categories at 40 C.F.R. 122.27. The Ninth Circuit then dismisses EPA's effort to retain this flexible approach in the stormwater program and ruled that EPA's 1990 stormwater regulations included forestry within the definition of "industrial activity," thus triggering the section 402(p) permit requirement.

When EPA adopted this rule in 1976, it defined the key activities associated with responsible forest management as nonpoint sources subject to "best management practices" or BMPs. EPA concluded that the nonpoint source BMPs better addressed water runoff from forest management than would discharge permits which the Clean Water Act requires for point sources. As you know, the Clean Water Act directs that each state must develop and implement BMPs.

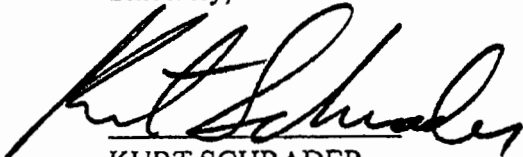
Forestry activities in the United States are now conducted under the most comprehensive program of BMPs of any land use activity. Studies have shown that these BMPs are widely used and highly effective. Most states engage with the forest landowners in a process of continuous improvement for their BMPs, even to the extent of engaging in peer review programs with other states.

Today the greatest threat of deforestation comes from the conversion of forests to non-forest uses that produce a higher economic value. The families, businesses and individuals that own nearly 60 percent of our nation's forests depend on the returns they get from the products their forests produce to make additional investments in sound, long-term forest management. Regulations such as the nonpoint source definition of silviculture are critical factors enabling landowners to maintain their land in forests.


Decisions like this regarding the silviculture definition do not further the protection of water quality but rather hasten the conversion of forestland into other uses. As new housing starts remain at their lowest levels in decades, and with forest products markets losing jobs as well,

this is hardly the time to impose unnecessary new regulatory burdens. As the President recently pointed out in **Executive Order 13563**, agencies should seek out regulatory approaches that reduce regulatory burdens and maintain flexibility. We urge you reaffirm that the BMP approach is the correct one for responsible forest management legally, environmentally, and economically by defending the regulations in all appropriate proceedings and by taking the steps necessary to limit the scope of this ruling to the extent possible, particularly in the face of conflicting case law in other Circuits.

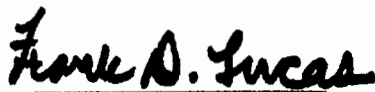
Sincerely,


  
KURT SCHRADER  
Member of Congress


  
JAIME HERRERA BEUTLER  
Member of Congress


  
DOC HASTINGS  
Member of Congress

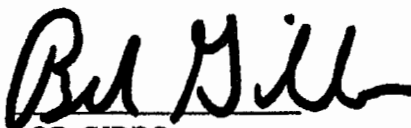
  
NICK RAHALL  
Member of Congress


  
FRANK LUCAS  
Member of Congress


  
NORM DICKS  
Member of Congress


  
PETER DEFAZIO  
Member of Congress

  
GREG WALDEN  
Member of Congress

  
BOB GIBBS  
Member of Congress

  
ROB BISHOP  
Member of Congress

  
MIKE ROSS  
Member of Congress

  
BOB GOODLATTE  
Member of Congress



MICHAEL SIMPSON

Member of Congress



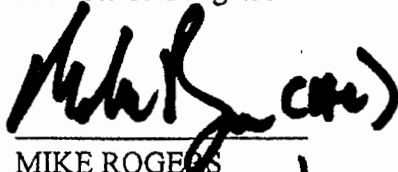
BILL OWENS

Member of Congress



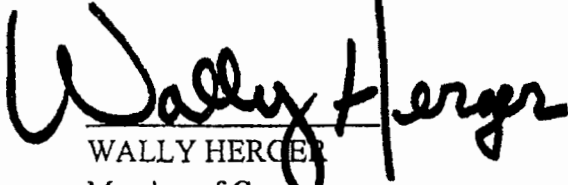
DAN BOREN

Member of Congress



MIKE ROGERS

Member of Congress



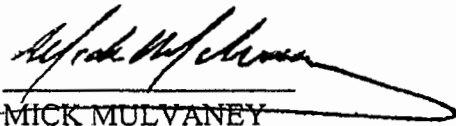
WALLY HERGER

Member of Congress



TERRI SEWELL

Member of Congress



MICK MULVANEY

Member of Congress



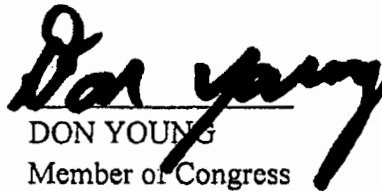
BRETT GUTHRIE

Member of Congress



GLENN THOMPSON

Member of Congress



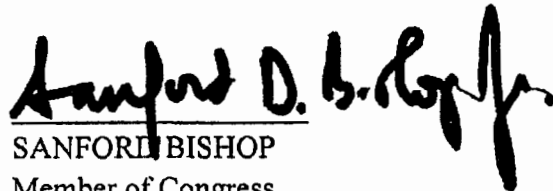
DON YOUNG

Member of Congress



RENEE ELLMERS

Member of Congress



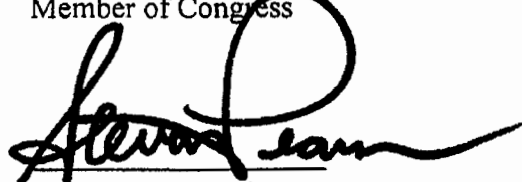
SANFORD BISHOP

Member of Congress



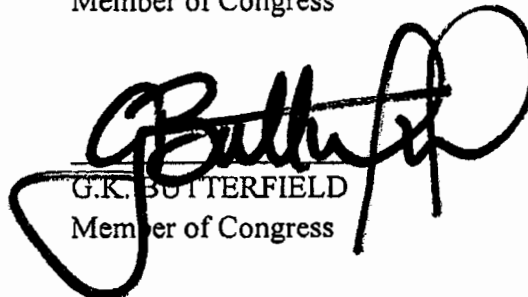
RAÚL LABRADOR

Member of Congress



STEVAN PEARCE

Member of Congress



G.K. BUTTERFIELD

Member of Congress



JEFF DENHAM

Member of Congress



RICK LARSEN

Member of Congress



STEVE SOUTHERLAND

Member of Congress



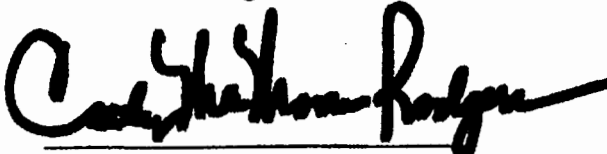
SHELLEY MOORE CAPITO

Member of Congress



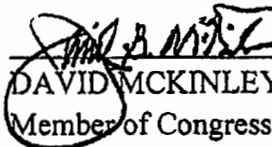
JO BONNER

Member of Congress



CATHY MCMORRIS RODGERS

Member of Congress



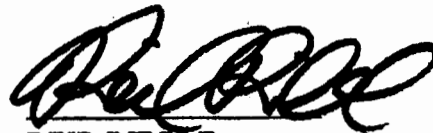
DAVID MCKINLEY

Member of Congress



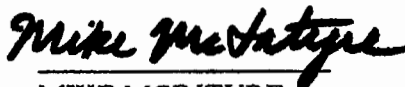
MIKE MICHAUD

Member of Congress



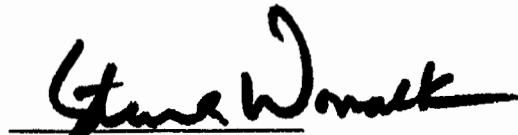
REID RIBBLE

Member of Congress



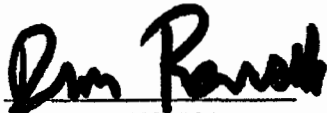
MIKE MCINTYRE

Member of Congress



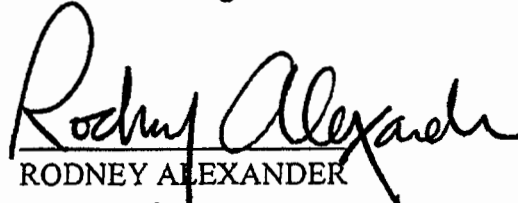
STEVE WOMACK

Member of Congress



DAN BENISHEK

Member of Congress



RODNEY ALEXANDER

Member of Congress



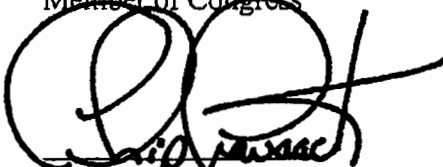
ALAN NUNNELEE

Member of Congress



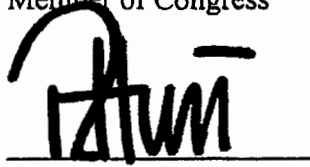
LYNN WESTMORELAND

Member of Congress



CHIP CRAVACK

Member of Congress



ROBERT HURT

Member of Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL - 1 2011

OFFICE OF  
WATER

The Honorable Jeff Denham  
House of Representatives  
Washington, DC 20515

Dear Congressman Denham:

Thank you for your May 23, 2011, letter regarding the August 17, 2010, ruling of the U.S. Court of Appeals for the Ninth Circuit in Northwest Environmental Defense Center (NEDC) v. Brown, 617 F.3d 1176 (9<sup>th</sup> Cir. 2010) regarding long standing National Pollutant Discharge Elimination System (NPDES) regulations effecting the management of stormwater from forest roads.

The Court in NEDC v. Brown held that stormwater runoff from certain logging roads that is collected by and discharged from a system of ditches, culverts and channels is a point source for which an NPDES permit is required. The decision applies to those forest roads that (1) are primarily used for logging; and (2) discharge channeled stormwater from a system of ditches, culverts or channels to a water of the United States.

Certain activities and features associated with logging, including roads and road ditches, create opportunities for water channeling and flow diversion, which, if not properly controlled and directed, can generate erosive flows. Such flows can degrade aquatic ecosystems by increasing levels of fine sediment introduced to streams and by altering natural streamflow patterns. Increased sediment delivery and stream turbidity adversely affects the survival of dozens of sensitive aquatic biota such as salmon, trout, other native fishes, amphibians and macroinvertebrates. Roads are generally considered to be the major source of sediment to water bodies from harvested forest lands. They have been found to contribute up to 90 percent of the total sediment load from forestry activities.<sup>1</sup>

Properly locating, designing and maintaining logging roads can significantly reduce environmental threats – and remove roads from NPDES jurisdiction, as interpreted in NEDC v. Brown. Many logging road operators already employ these practices. Historically, logging roads were intentionally designed to direct stormwater into streams via ditches, channels, and culverts. More recent design standards seek to direct drainage onto porous forest soils for infiltration, so they do not discharge into waters of the United States. The NEDC v. Brown decision does not encompass roads that adhere to such standards.

EPA continues to meet with stakeholders to discuss long-term options. Discussions with stakeholders have been and will continue to be invaluable in assisting the EPA to respond to NEDC v. Brown. Leveraging stakeholders' extensive expertise, the EPA will seek to design a response that minimizes

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<sup>1</sup> United States Environmental Protection Agency, 2005, National Management Measures to Control Nonpoint Source Pollution from Forestry, EPA-841-B-05-001, p. 2-4.

unnecessary burdens and promotes flexibility to the greatest extent possible while carrying out the requirements of the Clean Water Act.

In the short term, where the EPA is the NPDES permitting authority, operators who want permit coverage may seek coverage under the September 29, 2008, Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities (MSGP). Alternatively, operators may submit an individual permit application.

Thank you again for sharing your concerns with us. If you have further questions, please contact me or your staff may call Greg Spraul in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-0255.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. K. Stoner', with a stylized flourish at the end.

Nancy K. Stoner  
Acting Assistant Administrator

AL 11-000-2213

**Congress of the United States**  
**Washington, DC 20515**

February 11, 2010

Administrator Lisa Jackson  
U.S. Environmental Protection Agency  
Office of Administrator Room 3000  
1200 Pennsylvania Avenue NW  
Washington, D.C. 20460

Dear Administrator Jackson:

We write to you today to urge the Environmental Protection Agency to finalize a rule exempting milk storage facilities from Spill, Prevention, Control, and Countermeasure (SPCC) regulations.

As you know, EPA is granted authority to administer the SPCC program in efforts to prevent oil discharges into U.S. waterways. SPCC regulations require facilities that store or use significant quantities of oil or fuel develop a prevention plan in order to prevent and contain any potential spills on site. While the lessons of the Gulf oil spill and other incidents have proven that more preventative action is needed, unfortunately, under the definition set forth by the SPCC program, milk is classified in the same category as petroleum due to its animal fat content. While this issue has been brought up before, it has failed to come to a close, and continues to loom over the heads of dairy producers who are already under economic duress.

Enacted in 1995, the Edible Oil Regulatory Reform Act was intended to correct this misclassification. This legislation mandated that all federal agencies differentiate between oils, animal fats, and grease in its regulations. However, 15 years later, the issue that this law was intended to rectify still exists, exemplified by the classification of milk in the same category as oil.

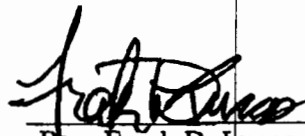
On January 15, 2009, EPA announced its proposed rulemaking for exempting milk containers from SPCC requirements. While the EPA has extended the compliance deadline specifically to address SPCC requirement for milk and milk product containers, the agency has failed to finalize the suggested exemption over the last two years. This lack of clarity has created great concern and uncertainty within the dairy industry, whom all the while have been regulated by the Food and Drug Administration.

It is evident that extending SPCC regulations to the dairy industry is excessive, overreaching, and unnecessary. We ask that EPA move immediately to finalize the proposed rule that would permanently exempt certain milk containers and associated piping and appurtenance from the Spill Prevention, Control, and Countermeasure program.

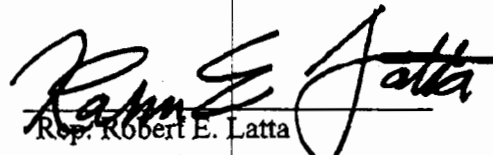
Thank you for your prompt attention to this request, and we look forward to your response.

Sincerely,

  
Rep. Candice S. Miller


  
Rep. Frank D. Lucas

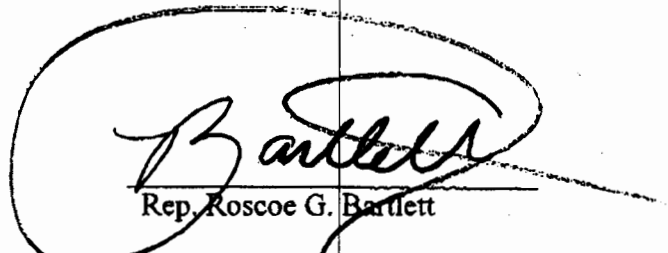
  
Rep. Joe Courtney

  
Rep. Robert E. Latta


  
Rep. Jeff Denham

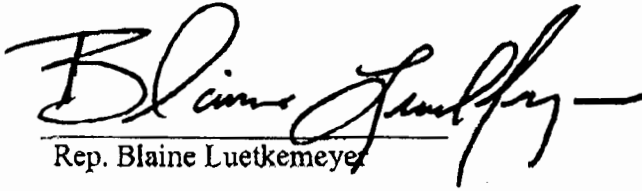
  
Rep. Sam Graves

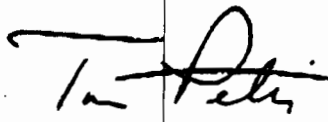
  
Rep. William L. Owens

  
Rep. Roscoe G. Bartlett

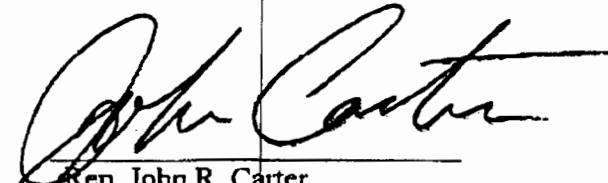
  
Rep. Devin Nunes

  
Rep. Bill Huizenga

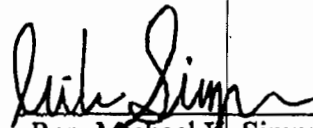
  
Rep. Blaine Luetkemeyer

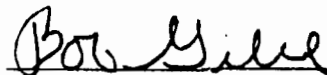
  
Rep. Thomas E. Petri

  
Rep. Tim Holden

  
Rep. John R. Carter

  
Rep. Lynn Jenkins

  
Rep. Michael R. Simpson

  
Rep. Bob Gibbs



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 15 2011

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of February 11, 2011, to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, urging EPA to finalize a rule exempting milk storage facilities from the oil Spill Prevention Control and Countermeasure (SPCC) regulations. I appreciate your interest in this important issue.

EPA is working on a final action designed to exempt milk and milk product containers from the SPCC regulations. The final rule is currently undergoing interagency review and we expect the rule to be issued in early spring 2011. Also, on October 7, 2010, EPA delayed the SPCC compliance date by which a facility must address milk and milk product containers, associated piping and appurtenances one year from the effective date of the above referenced milk rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink, reading "Mathy Stanislaus", is positioned above the typed name.

Mathy Stanislaus  
Assistant Administrator

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

June 9, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20004

Dear Administrator Jackson:

We continue to hear from growers about the important role soil fumigants play in the production of numerous specialty crops throughout our country, including strawberries, potatoes, peppers, tomatoes, melons, fruit trees, almonds, tobacco, cut flowers, grapes, forest nursery, plant nursery and orchard replants.

Growers are now using additional safety measures that were required by the May 2009 Amended Reregistration Eligibility Decisions (REDs) for soil fumigants. Many of the additional safety measures were implemented through label changes that went into effect in 2010. Growers are now preparing to comply with additional product label changes and other measures that will be implemented as part of the remaining phase of reregistration. Among other changes, these measures include extensive training programs for applicators, enhanced worker protection requirements, and the implementation of buffer zones and other restrictions around treated fields. As we speak to growers about these new changes, many of them have raised concerns about EPA's request that pesticide registrants develop a community outreach campaign.

Pesticide registrants and growers disagree with EPA's assertion that there is often a fundamental lack of information regarding soil fumigants within communities where fumigations are conducted. Incidents involving offsite exposure from the use of soil fumigants are extremely rare. The new measures already required as part of the RED label changes for soil fumigant applications will further reduce the already small risk of any offsite exposure to surrounding communities, but EPA is requesting the outreach campaign on top of these requirements.

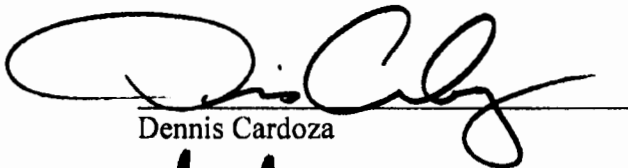
In order to address the community outreach issues expressed by EPA in the REDs, the Chloropicrin Manufacturers' Task Force, Metam Task Force, and Methyl Bromide Industry Panel submitted a proposal to EPA in August 2010. Their proposal includes the dissemination of fumigant specific information sheets **tailored to first responders and a separate set of information sheets tailored to medical personnel**, as well as the development of English and Spanish websites which will allow vital information about soil fumigants and their use to be **easily accessible to those living near fumigated fields in a manner that will avoid unnecessary and unwarranted alarm.**

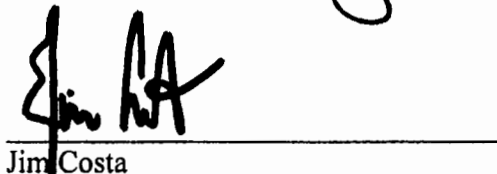
This proposal for community outreach appears to be a reasonable and cost-effective approach given EPA's goal in seeking to satisfy the issues expressed in the REDs. It is our understanding, however, that EPA has asked the registrants to expand its community outreach proposal to include an additional outreach medium and additional content. We have several questions in light of EPA's response:

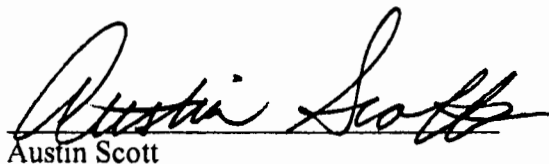
- Given the extremely low rate of incidents of off-site exposure and all of the additional safety measures that are now or will soon be required by the REDs, why does EPA believe that a community outreach program is needed?
- Has EPA held discussions with municipalities and first responders to determine the impact of an expanded community outreach program on local resources due to non-incident related inquiries?
- Has EPA done any assessment of the cost impact of an expanded community outreach proposal on fumigant registrants and growers?

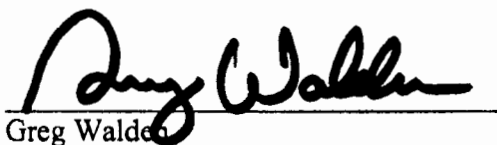
We look forward to receiving your answers to these questions and appreciate your consideration of the concerns raised by growers in our communities.

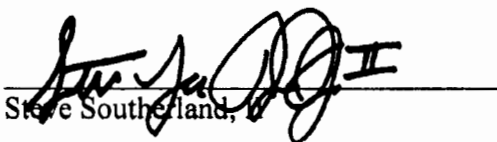
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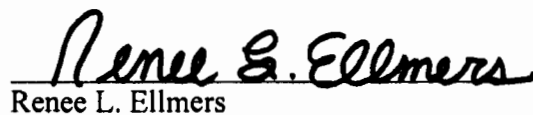
  
Dennis Cardoza

  
Jim Costa

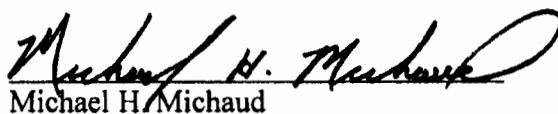
  
Austin Scott

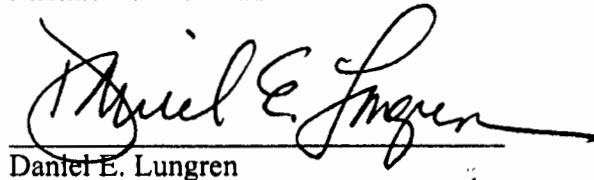
  
Greg Walder

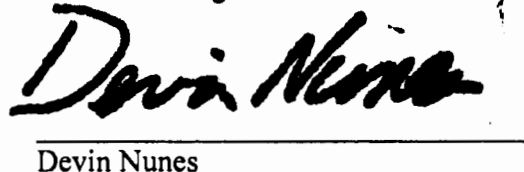
  
Steve Southerland

  
Renee L. Ellmers

  
Walter B. Jones

  
Michael H. Michaud


  
Daniel E. Lungren

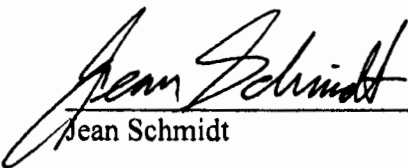
  
Devin Nunes

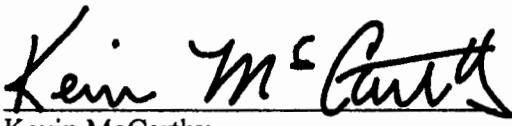


  
Jeff DeLam

  
Rick Larsen

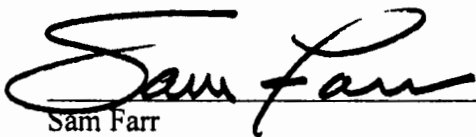
  
Tom McClintock

  
Jean Schmidt


  
Kevin McCarthy

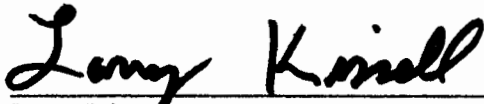
  
Stephen Lee Fincher

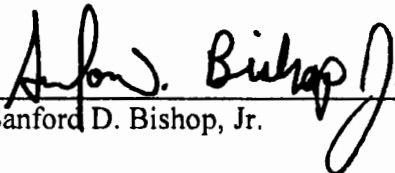
  
Howard Coble

  
Sam Farr

  
Kurt Schrader

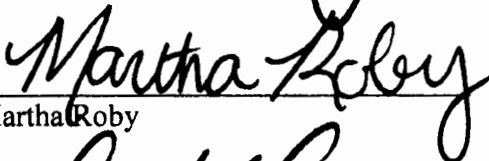
  
Tim Huelskamp

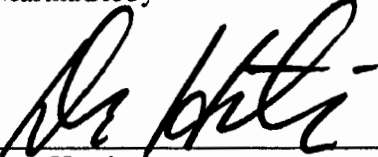
  
Larry Kissen

  
Sanford D. Bishop, Jr.

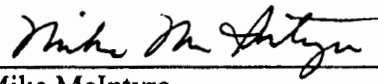
  
Joe Courtney


  
Bill Huizenga

  
Martha Roby

  
Doc Hastings

  
Fred Upton

  
Mike McIntyre

  
\_\_\_\_\_  
Andy Harris



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 29 2011

OFFICE OF CHEMICAL SAFETY  
AND POLLUTION PREVENTION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of June 9, 2011, to Administrator Lisa P. Jackson of the U.S. Environmental Protection Agency regarding community outreach programs for soil fumigant pesticides, which are among the new safety measures outlined in the Reregistration Eligibility Decisions (REDs) for the soil fumigants. Administrator Jackson asked me to respond on behalf of the Agency because my office is responsible for regulating pesticides.

With regard to the community outreach programs required by the REDs, as a result of the public participation process the agency used for review of the soil fumigants, EPA determined that, in many cases, a lack of information about soil fumigants led to inappropriate responses in situations where fumigants moved off-site and into surrounding communities. EPA also found that in many areas where soil fumigant use is high, communities had concerns about the potential for exposure and associated risks. To address these concerns EPA required registrants to provide information to communities where soil fumigant use is high to help ensure these communities are informed about soil fumigant safety and able to recognize and respond appropriately should an incident occur. It is also important to note that while overall rates of off-site exposure to soil fumigants are relatively low, data recently compiled by the National Institute for Occupational Safety and Health indicate that soil applications with fumigants are responsible for a large proportion of off-site exposure cases as well as large off-site exposure incidents.

EPA believes the proposals submitted by the Chloropicrin Manufacturers' Task Force, Metam Task Force, and Methyl Bromide Industry Panel in August 2010 form an excellent basis for meeting the goals outlined in the REDs and summarized above. In a letter dated February 28, 2011, the agency provided comments to the task forces on their proposals. In those comments, EPA asked for additional information to be included in the proposals so the resulting programs would meet the criteria specified by the agency. This included providing details of the content for the website and additional measures to help ensure the information effectively reaches its target audience.

EPA understands the concerns raised in your letter that were also voiced by the task forces in a meeting with my staff on March 17 of this year. EPA agrees that both the information for communities and the means of providing it to them must be carefully considered to avoid unintended consequences such as raising rather than reducing unwarranted concerns. In a June 17, 2011, letter to the task forces regarding their updated proposals, EPA concluded that the

programs the task forces have proposed are likely to achieve the goals outlined in the REDs. We are working to gain further clarity on a few aspects of the proposed programs and hope to be in a position to approve the programs soon.

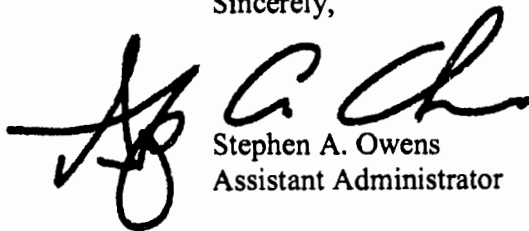
Throughout the lengthy public participation process the agency used in reaching its decision that the soil fumigants would be eligible for reregistration, EPA heard concerns from citizens about risk of exposure to pesticides they could not see or smell. Because most fumigants can easily be detected at low concentrations due to their irritant properties (i.e., they cause tearing and burning of the eyes and nose), EPA concluded that providing information on the early signs of exposure to people living in communities where soil fumigant use is high would enable them to differentiate between symptoms resulting from exposure to fumigants and those from other causes. EPA agrees with the task forces that there may be effective ways to achieve this goal without including information on fumigant-related symptoms, and we are asking the task forces for more details on how their proposed program does this so the agency will be in a position to approve the programs.

As part of the evaluation of risks and benefits, as well as analysis of the potential impacts of all of the measures necessary to reach a determination that the soil fumigants were eligible for reregistration, EPA considered the overall costs of the mitigation measures required by the REDs. Additionally, EPA is currently preparing an Information Collection Request (ICR) for the parts of the RED that require approval by the Office of Management and Budget under the Paperwork Reduction Act. The ICR will include an estimate of the cost of the community outreach program.

The community outreach programs as proposed by the task forces are very close to achieving the program safety goals outlined in the soil fumigant REDs. We look forward to receiving their further input on a few remaining issues. With minor revisions, the proposals will result in programs that effectively provide important safety information to communities.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Mr. Sven-Erik Kaiser in EPA's Office of Congressional and Intergovernmental Relations at (202) 566-2753.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen A. Owens', is written over a horizontal line.

Stephen A. Owens  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

November 18, 2011

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, DC 20460

Dear Administrator Jackson:

As U.S. Representatives of a consumer-owned utility that is a partial owner of the San Juan Generating Station (SJGS) in New Mexico, we respectfully request your assistance in meeting federal EPA Regional Haze requirements with the most cost-effective technology described below.

The M-S-R Public Power Agency in California is jointly owned by the Modesto Irrigation District, serving the City of Modesto and portions of Stanislaus and San Joaquin Counties, and the municipal utilities serving the Cities of Santa Clara and Redding. The M-S-R constituent members collectively own 28.8 percent of the SJGS Unit 4. All of these consumer-owned utilities actively support efforts to meet federal EPA Regional Haze requirements. All are making significant and costly investments to meet state energy requirements, including a 30-percent reduction in Greenhouse Gas (GHG) emissions (80 percent by the year 2050) and a 33-percent renewable energy standard by the year 2020.

On June 2, 2011, New Mexico's Environment Department unanimously approved a State Implementation Plan (SIP) to retrofit SJGS with Selective Non-Catalytic Reduction technology (SNCR) to reduce regional haze and meet federal air quality goals. The SNCR option achieves EPA's established presumptive NOx limit, reduces NOx that contributes to haze by an additional 4,900 tons per year and also results in visibility improvements. The plan meets Clean Air Act standards and has an estimated capital installation cost of \$74 million.

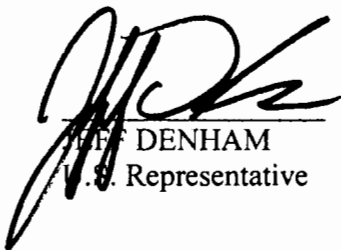
We understand, prior to the SIP's being approved by the State of New Mexico, U.S.-EPA Region 6 issued its own Federal Implementation Plan (FIP) to meet the same federal air quality goals and subsequently published the same in the Federal Register. The federal plan calls for the installation of Selective Catalytic Reduction (SCR) technology, at a cost of more than \$779 million. SCR technology would remove a greater amount of the NOx pollutant; however, the visibility improvement gained is minimal as compared to the New Mexico plan.

M-S-R Public Power Agency and its public power partners, who are charged with the delivery of affordable, reliable energy to their customers, are already making enormous environmental strides as required under California law. The added layer of EPA's SCR requirement at SJGS would be fiscally painful, with each of the M-S-R Public Power Agency constituent member's 210,000 customers obligated to pay up to \$660 each for their utility's financed share of the SCR retrofit. This additional cost would be a hard pill to swallow for residents of California's Central Valley, which has some of the highest levels of unemployment in the State.

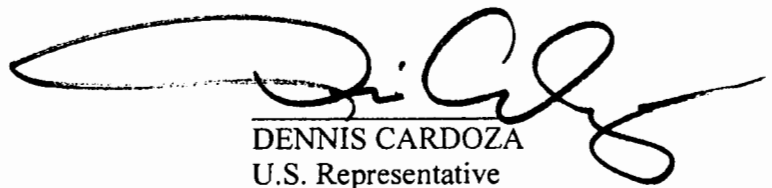
Before your agency requires a technology that is roughly 13 times the cost of the SNCR and produces minimal visibility improvement, we respectfully request careful consideration of the technical, as well as consumer impacts when analyzing the two options. Further, we note that on August 1, 2011, your Assistant Administrator for Air and Radiation informed my colleagues, the Honorable Mary Bono Mack, the Honorable Gary G. Miller, and the Honorable Joe Baca, that EPA would "fully consider the information in the New Mexico SIP, and take appropriate action."

We respectfully request your assistance with this important matter and that EPA withdraws its FIP; while, pursuant to Section 101 of the Clean Air Act, EPA looks to approve the New Mexico SIP including both its Interstate Transport and Regional Haze components.

Sincerely,



JEFF DENHAM  
U.S. Representative



DENNIS CARDOZA  
U.S. Representative



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 28 2011

OFFICE OF  
AIR AND RADIATION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter of November 18, 2011, co-signed by Congressman Dennis Cardoza, addressed to Administrator Lisa Jackson, concerning our Federal Implementation Plan (FIP) for the San Juan Generating Station (SJGS) in New Mexico to address the regional haze and interstate transport requirements of the Clean Air Act. The Administrator asked that I respond on her behalf.

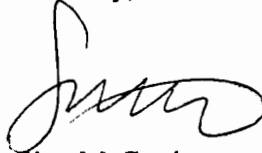
In your letter, you express concerns that our plan calls for Selective Catalytic Reduction (SCR) technology to reduce harmful emissions of nitrogen oxides ( $\text{NO}_x$ ) and about the financial burden that places on the M-S-R Power Agency's constituent members in California, who have partial ownership and rely on electricity from SJGS. You note that SCR is roughly 13 times the cost of Selective Non-Catalytic Reduction (SNCR), which the New Mexico Environment Department (NMED) proposed in its State Implementation Plan (SIP) for meeting the requirements of the regional haze rule, and that SCR provides minimal visibility improvement compared to SNCR. You request that we carefully consider the technical and consumer impacts when analyzing the SCR and SNCR options and that we withdraw the FIP and approve NMED's SIP.

The U.S. Environmental Protection Agency appreciates the considerable investments your utility members have made to reduce greenhouse gases and increase renewable energy capacity. I assure you that we carefully evaluated all the relevant factors, including cost and expected visibility improvement, in making the decision that SCR was the appropriate technology for reducing  $\text{NO}_x$  at SJGS. The issues raised in your letter were similar to other public comments we received when we proposed the FIP in January 2011, and we addressed those comments in the final FIP that we issued in August 2011 to meet the WildEarth Guardian's consent decree deadline.

As you state in your letter, I did inform your colleagues that we would fully consider the New Mexico SIP. Indeed, we will review New Mexico's plan, and as we indicated in our Federal Register notice in August 2011, if there is significant new information that changes our analysis, we will make appropriate revisions.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gina McCarthy', with a stylized, cursive script.

Gina McCarthy  
Assistant Administrator



AL 14-001-3612

JEFF DENHAM  
10TH DISTRICT, CALIFORNIA

E-MAIL VIA WEBSITE:  
Denham.house.gov

**Congress of the United States**  
**House of Representatives**  
Washington, DC

August 8, 2014

HOUSE AGRICULTURE COMMITTEE

HOUSE TRANSPORTATION AND  
INFRASTRUCTURE COMMITTEE

CHAIRMAN, SUBCOMMITTEE ON RAILROADS,  
PIPELINES AND HAZARDOUS MATERIALS

HOUSE VETERANS' AFFAIRS COMMITTEE

Laura Vaught  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW, Room 3426 ARN  
Washington, DC 20460  
Phone: (202) 564 - 5200  
Fax: (202) 501 - 1519

Dear Ms. Vaught

I am writing on behalf of *Ex. 6* a constituent in my Congressional District, regarding a matter which may be best handled by your office. Ms. *Ex. 6* contacted my District office for assistance in retrieving her Mini Cooper that is being held in Oxnard, California by the EPA.

Ms. *Ex. 6* stated that she ordered a 2015 Mini Cooper from Europe and was expecting to pick it up in Pleasanton, California. She is under the impression that it is due to new emissions and mileage tests that need to be done by the EPA on these new models. She was told that the vehicles would not be inspected until September 25<sup>th</sup> and, therefore, the earliest she would receive her vehicle is October, two months after the expected arrival date. Does the EPA have any information that they are able to release in regards to when she will be able to receive her car, why it is being held, or whether there is anything Mrs. *Ex. 6* can do to quicken the process?

I have attached the petitioner's Privacy Release Form for your review  
I would appreciate a review and response from your office to try and resolve *Ex. 6* case.

Please reply to my Modesto District Office at: 4701 Sisk Road, Suite 202, Modesto, California 95356. If you have any questions regarding this matter, please contact my Constituent Service Advisor, Melody Maldonado, at 209-579-5458 or by e-mail at [melody.maldonado@mail.house.gov](mailto:melody.maldonado@mail.house.gov).

Sincerely,



Jeff Denham  
United States Representative

MODESTO  
4701 SISK ROAD, SUITE 202  
MODESTO, CA 95356  
PHONE: (209) 579-5458  
FAX: (209) 579-5028

CONNECT  
YOUTUBE.COM/REPJEFFDENHAM  
TWITTER.COM/REPJEFFDENHAM  
FACEBOOK.COM/REPJEFFDENHAM

WASHINGTON, DC  
1730 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
PHONE: (202) 225-4540  
FAX: (202) 225-3402



# Jeff Denham

United States Congressman ~ California ~ 10<sup>th</sup> District

## Constituent Request & Release Form

In order to be of service to you, I need to know the following information about your issue:

NAME:	E.L.		DATE:	8/4/14	
ADDRESS:	E.L.				
CITY: Riverbank	STATE:	CA	ZIP:	95367	
DAY PHONE:	EVENING PHONE:		same		
E-MAIL:	E.L.				
SSN	DATE OF BIRTH:		E.L.		
"A" NUMBER:	RECEIPT #:				
VA "C" #:	MILITARY SERIAL #:				

Please describe your issue. You may use additional sheets of paper if necessary. Please enclose copies (not originals) of any pertinent supporting documents.

This is not just my problem, but one shared by anyone in the U.S. who is waiting for a 2015 MINI Cooper. My particular vehicle is currently in a MINI processing center in Oxnard, CA. It is being held there after completing the journey by ship from the U.K. I would have picked it up in Pleasanton, CA in a few days, but the EPA is holding up mine and countless others until they can conduct a new emissions and mileage test on the slightly-tweaked 2015 models.

They will not get to it until September 25, which means the earliest our vehicles can be released will be October. The poor dealer is having to call everyone expecting the arrival of his/her car to give them the bad news. This is costing the dealer money, as people are canceling orders and is delaying sales tax revenue on these vehicles. If there were just 100 cars waiting, that adds up to over \$2 million in inventory.

Can you help facilitate speeding up the EPA doing the test sooner or releasing the vehicles and then do the testing. In addition to the effect this will have on 3rd qtr sales for MINI and delayed sales tax revenue, regular families are losing income as salespeople's commissions will either be delayed or cancelled altogether with the cancellations of orders. PLEASE HELP!

Pursuant to the Privacy Act of 1974, I authorize Congressman Jeff Denham's office to obtain any information with the above matter.

SIGNATURE

E.L.

DATE

8-4-14

Please mail to:

Congressman Jeff Denham  
Attn: Melody Maldonado  
4701 Sisk Rd, Ste 202  
Modesto, CA 95356



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 31 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your August 8, 2014, letter to the U.S. Environmental Protection Agency on behalf of your constituent Ms. *Ehle*, who is seeking information on a 2015 MINI Cooper she ordered that was being held at a MINI processing center in Oxnard, California. It is my understanding that the vehicle was being held by BMW and not by an action of the federal government.

In order to import vehicles into the United States, manufacturers need to comply with several federal requirements, including compliance with the Clean Air Act. Manufacturers will on occasion store vehicles at their factories or ports until they complete the work necessary to import or ship their vehicles. Because we are not always fully aware of all of the reasons for holding a vehicle and because of potential assertions of Confidential Business Information (CBI) by a manufacturer, we generally refer such inquiries directly to the company to find out why the vehicle has not been delivered.

In this case, we understand that BMW has, on their own, communicated to some customers that the vehicles are being held by the company pending application and approval by the EPA for a certificate of conformity and/or a fuel economy label. EPA received a complete application from BMW for the MINI Cooper and the MINI Cooper S with the manual transmission on September 30, 2014, and approved the manufacturer's submittal on October 1, 2014. EPA received a complete application for the MINI Cooper S with the automatic transmission on October 6 and approved BMW's submittal on October 7.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or 202-564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "J G McCabe", is written above the typed name.

Janet G. McCabe  
Acting Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

June 10, 2014

The Honorable Gina McCarthy  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Dear Administrator McCarthy:

We are writing to request emergency consideration and issuance of a clarification by the Environmental Protection Agency (EPA) to the interpretation of the "exceptional events" provision of the Clean Air Act (42 USC § 7619) to include the current drought in California.

California Governor Jerry Brown declared a State of Emergency on January 17, 2014, due to extreme drought conditions in the state, and the U.S. Department of Agriculture has designated every county in California as drought disaster areas. These declarations are based on record-low precipitation in the 2013 water year and the northern California snowpack being at only 20 percent of average for that time of year. Specifically in the San Joaquin Valley, 2013 represented the driest year since the start of record keeping in 1895 and these drought conditions are continuing into 2014. In other words, the Valley is experiencing a level of drought not seen in at least 119 years.

A direct result of the ongoing drought and the associated weather conditions is that the Central Valley will not be able to demonstrate attainment for the 1997 PM<sub>2.5</sub> Standard until at least 2016 as a direct result of drought-related air quality exceedences in November and December of 2013. This is particularly troubling because the San Joaquin Valley Air Pollution Control District (APCD) has informed us that except for these drought-related exceedences, the Central Valley was on track to demonstrate attainment by the end of 2014. Thus, our constituents will be required to acquire more emission offsets, driving up infrastructure and other project costs, or potentially face the loss of Federal transportation funds for critical highway projects in the Valley, as a direct result of these unforeseen and uncontrollable drought-related air quality impacts.

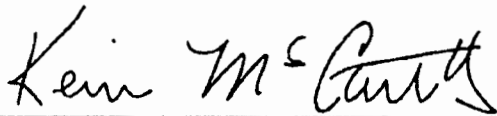
Let us be clear – we support efforts to clean up the air in the Central Valley. It is important to note the most recent APCD annual report shows that good quality air days for the 1997 PM<sub>2.5</sub> Standard have steadily increased since 2002, PM<sub>2.5</sub> concentrations have significantly dropped since 2002, and days over this standard are also down from a high in 2005. This is because of the efforts of our families, farmers, and businesses to clean up the air we breathe. Furthermore, APCD officials inform us that the Central Valley must still work toward compliance with two newer PM<sub>2.5</sub> standards, and the California Air Resources Board has promulgated or is proposing regulations that mandate the replacement of old, pollution-emitting heavy and light duty vehicles and equipment with newer, cleaner models. Therefore, should EPA declare the ongoing drought an exceptional event, our constituents still face an extremely demanding regulatory environment that will challenge the regions ability to meet its compliance requirements.

We believe it would be wrong to penalize our constituents by failing to declare the ongoing drought in California an exceptional event under the Clean Air Act because Mother Nature has not blessed our state with rain or snow. We also believe penalizing them for this reason is contrary to the intent of the Clean Air Act, which specifically allows the exclusion of exceptional events when determining National Ambient Air Quality Standards attainment.

While we understand that the "exceptional events" provision of the Clean Air Act does not exclude data obtained from one single meteorological event involving stagnation or lack of precipitation, we believe the current drought emergency in California represents a multitude of events over a significant duration that would qualify under most interpretations as exceptional. Therefore, we urge you to consider a broader interpretation of the Clean Air Act exceptional events provisions that would help residents of the California Central Valley and across our state reach attainment of the 1997 PM2.5 air quality standards.

Thank you for your attention to this important matter. We look forward to your response and working with you to ensure our communities are not unfairly penalized and additionally impacted due to the current record-breaking drought in our state.

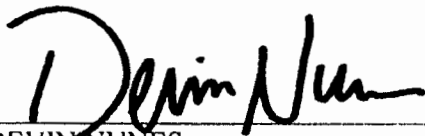
Sincerely,



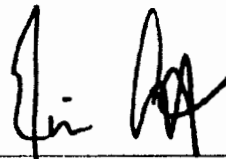
KEVIN MCCARTHY  
House Majority Whip



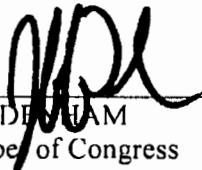
DAVID VALADAO  
Member of Congress



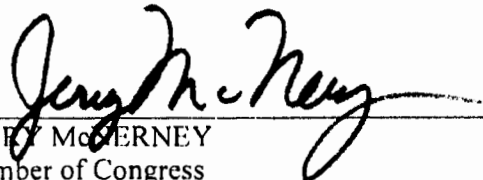
DEVIN NUNES  
Member of Congress



JIM COSTA  
Member of Congress



JEFF DEAM  
Member of Congress



JERRY MCINERNEY  
Member of Congress

CC: Ms. Janet McCabe  
Assistant Administrator for Air and Radiation  
U.S. Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 21 2014

OFFICE OF  
AIR AND RADIATION

The Honorable Jeff Denham  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Denham:

Thank you for your letter dated June 10, 2014, to U.S. Environmental Protection Agency Administrator Gina McCarthy, regarding the California drought and whether it qualifies as an "exceptional event" under the Clean Air Act (CAA). The Administrator has asked that I respond on her behalf.

We recognize the importance of this issue for California and its local air districts and the progress you have made in protecting your citizens from the harmful effects of air pollution. We have been working and will continue to work closely with the San Joaquin Valley Air Pollution Control District (APCD) and other APCDs to resolve exceptional event requests and implementation issues.

As you know, air pollution can have damaging effects on human health, including respiratory problems, hospitalization for heart or lung disease, and even premature death. In addition, air pollution can have effects on aquatic life, vegetation, and animals. For these reasons, the Clean Air Act requires the EPA to set National Ambient Air Quality Standards (NAAQS) for certain air pollutants to protect human health and the environment. That said, sometimes "exceptional events" - e.g., high wind dust events, volcanic eruptions, and wildfires - may cause high pollutant concentrations for reasons outside of the control of states and regulated sources. In those circumstances, the Clean Air Act allows exclusion of these event-influenced concentrations for regulatory purposes.

While the CAA specifically defines a "meteorological event involving high temperatures or lack of precipitation" as not an exceptional event allowing the exclusion of data from regulatory decisions, the EPA believes that some drought-related exceedances and violations may be considered for exclusion under the provisions of the "Treatment of Data Influenced by Exceptional Events; Final Rule." For example, the EPA believes that an air agency can submit evidence showing that a severe drought resulted in arid conditions (e.g., lower than typical soil moisture content, decreased vegetation, etc.), which, when combined with another event (e.g., a high wind event or wildfire), could be considered eligible for exclusion. In this scenario, the EPA would consider the subsequent event, which would need to meet the provisions of the rule, as the exceptional event. It is in this spirit that we evaluate specific state requests for an Exceptional Events finding.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at lewis.josh@epa.gov or (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "J. G. McCabe", with a stylized flourish at the end.

Janet G. McCabe  
Acting Assistant Administrator

AL 11-001-3062

**Congress of the United States**

**Washington, DC 20515**

July 27, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Jackson,

We are writing you to express our concerns with the implementation of the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers and ranchers.

As you know, the SPCC regulations would apply to any facility with an above-ground oil storage capacity of at least 1,320 gallons in containers holding more than 55 gallons. We are concerned with current circumstances that we feel are not conducive to effective compliance, or achieving the goal of SPCC regulations.

In order to comply with these guidelines, many farmers and ranchers will need to undertake expensive improvements in infrastructure and must hire engineers to meet specific criteria. At this time, most agriculture producers are hard-pressed to procure the services of Professional Engineers (PEs). Many producers have reported that they are unable to find PEs willing to work on farms. Additionally, some states do not have a single qualified PE registered to provide SPCC consultation. The scarce availability of engineers calls into question the viability of achieving the goal of full compliance by November 2011.

As you have travelled to farms and rural communities in the Mid-south and Midwest, you have seen first-hand the hardship facing farmers due to the devastation wrought by floods and severe weather. Farmers and ranchers are dealing with crop losses to the tune of billions of dollars and have been working around-the-clock to clean up the damage and preserve what little crops they have left. At this time, it is simply not within the means of many farmers to deal with losses while allocating time and money towards complying with SPCC regulations.

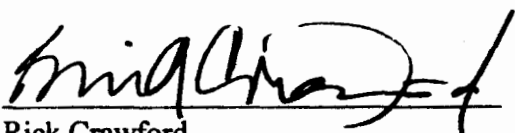
Recently, the EPA and the U.S. Army Corps of Engineers released draft guidance that drastically expands the agencies' authority in terms of the waters and wetlands considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farmers and ranchers are worried that this guidance will force compliance with the SPCC, without the necessary time to do so. We believe that producers want to be in compliance, but the delay of assistance documentation has severely constrained their ability to make the necessary preparations.



In addition, the EPA has yet to provide clarification regarding who is responsible for maintaining the plan, as many farms are operated by those who do not own the land. Many farmers and ranchers are also unsure of how the EPA will enforce the rule.

Before moving forward, we ask that you ensure a process free of confusion and overly burdensome rules that might disincentivize SPCC compliance. By nature of occupation, family farmers are already careful stewards of land and water. No one has more at stake than those who work on the ground from which they derive their livelihood. We respectfully request that you reconsider the SPCC implementation deadline, continue to dialogue with the agriculture community and its stakeholders, and ensure that the rule is not overly burdensome or confusing. We believe this would help avoid unintended consequences. We appreciate your attention to this important matter.

Sincerely,



Rick Crawford  
Member of Congress



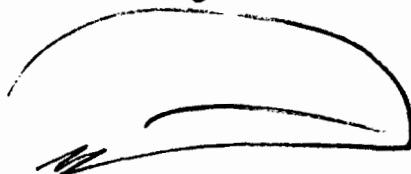
Stephen Fincher  
Member of Congress



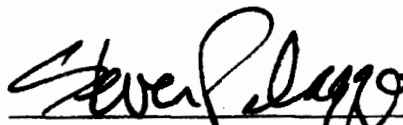
Steve Womack  
Member of Congress



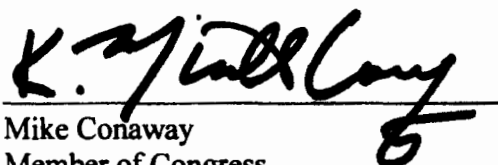
John Carter  
Member of Congress



Scott DesJarlais  
Member of Congress



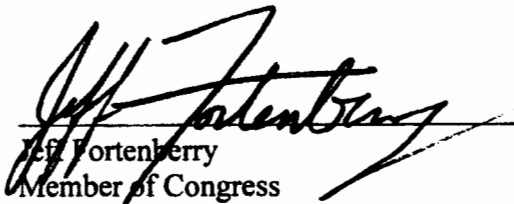
Steven Palazzo  
Member of Congress



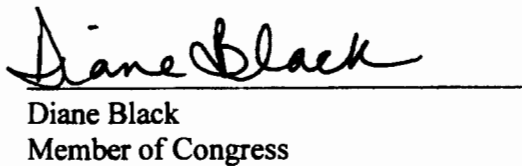
Mike Conaway  
Member of Congress

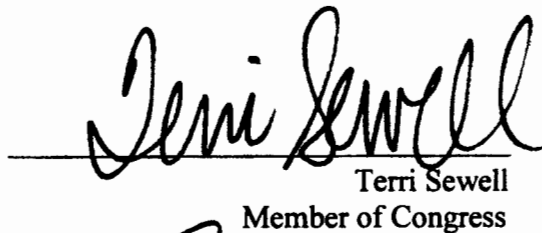


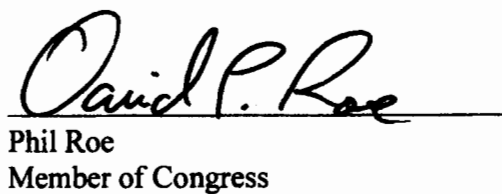
Brett Guthrie  
Member of Congress

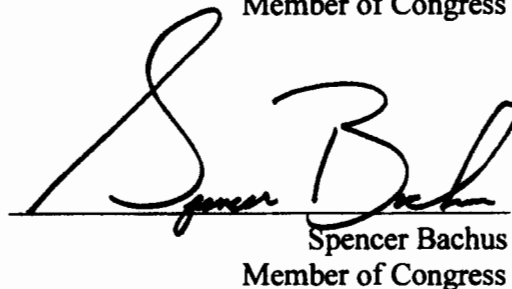
  
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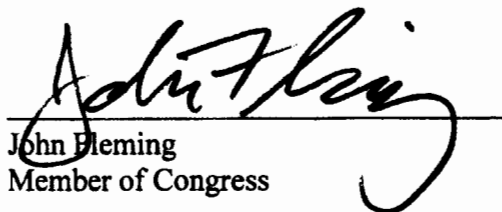
  
Walter Jones  
Member of Congress

  
Diane Black  
Member of Congress

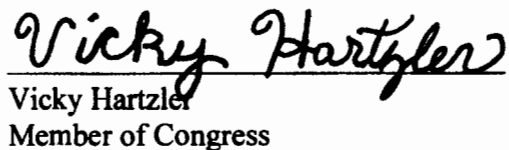
  
Terri Sewell  
Member of Congress

  
Phil Roe  
Member of Congress

  
Spencer Bachus  
Member of Congress

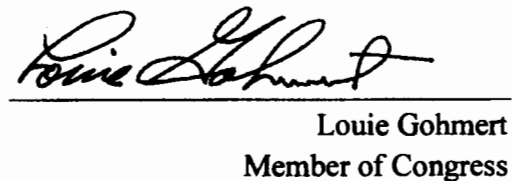
  
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Member of Congress

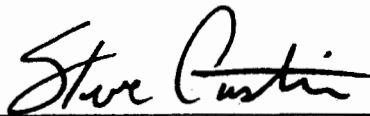
  
Marsha Blackburn  
Member of Congress

  
Vicky Hartzler  
Member of Congress

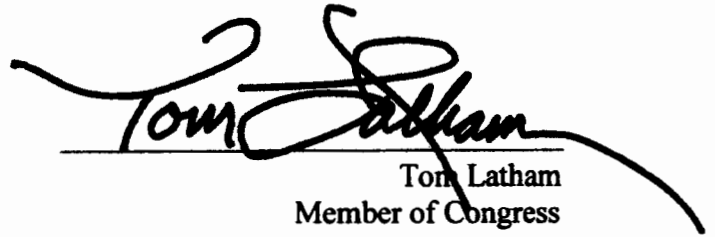
  
Cory Gardner  
Member of Congress

  
Steve King  
Member of Congress

  
Louie Gohmert  
Member of Congress



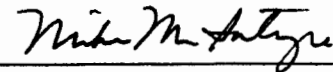
Steve Austria  
Member of Congress



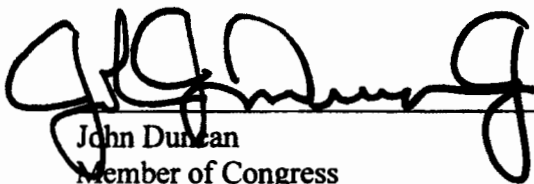
Tom Latham  
Member of Congress



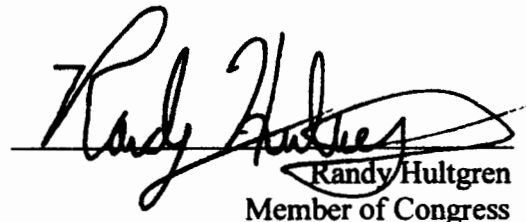
Mo Brooks  
Member of Congress



Mike McIntyre  
Member of Congress



John Duncan  
Member of Congress



Randy Hultgren  
Member of Congress




Candice Miller  
Member of Congress



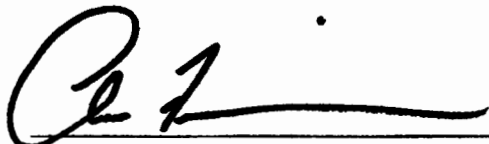
Lynn Jenkins  
Member of Congress



Francisco "Quico" Canseco  
Member of Congress



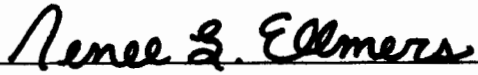
Todd Akin  
Member of Congress



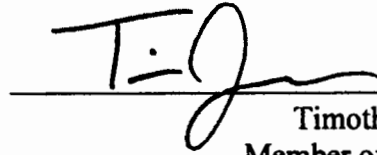
Charles Fleischmann  
Member of Congress



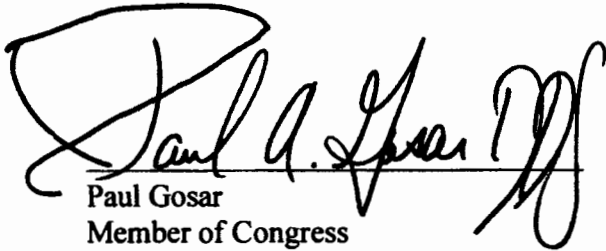
Bill Flores  
Member of Congress



Renee Ellmers  
Member of Congress



Timothy Johnson  
Member of Congress



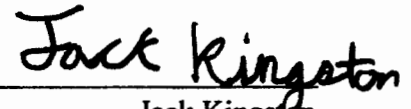
Paul Gosar  
Member of Congress



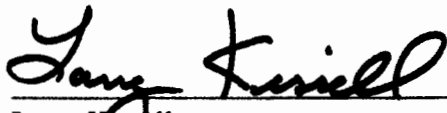
Austin Scott  
Member of Congress



Jim Costa  
Member of Congress



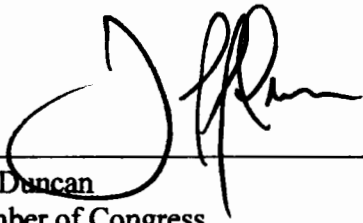
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Member of Congress



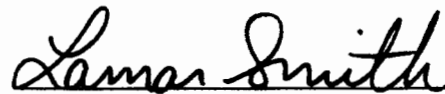
Larry Kissell  
Member of Congress



Glenn Thompson  
Member of Congress



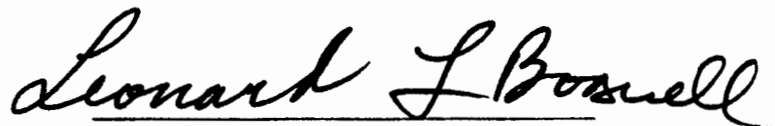
Jeff Duncan  
Member of Congress



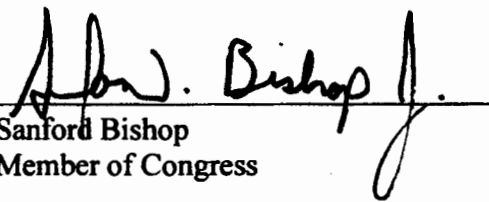
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Member of Congress

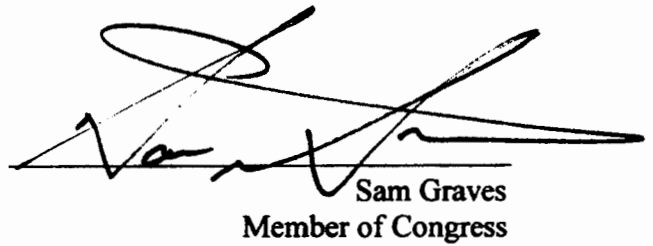


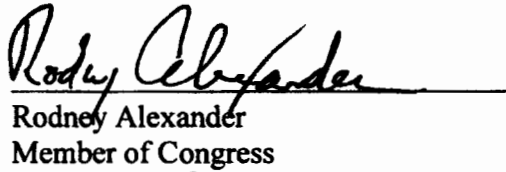
Richard Hanna  
Member of Congress



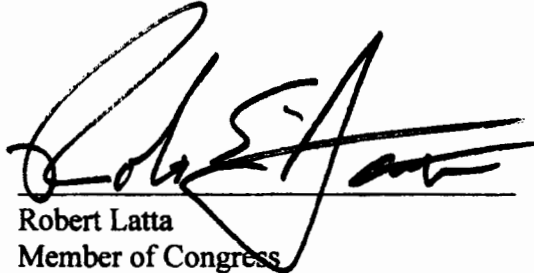
Leonard Boswell  
Member of Congress

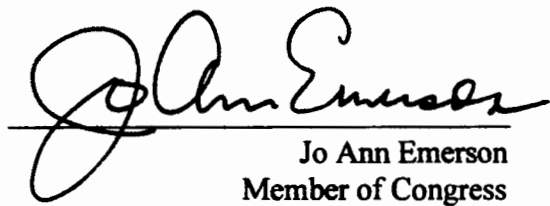
  
Sanford Bishop  
Member of Congress

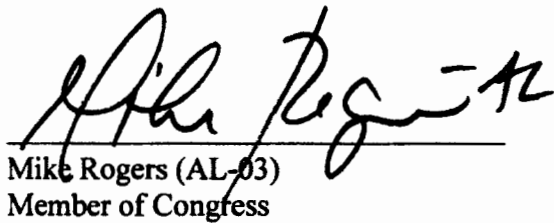
  
Sam Graves  
Member of Congress

  
Rodney Alexander  
Member of Congress

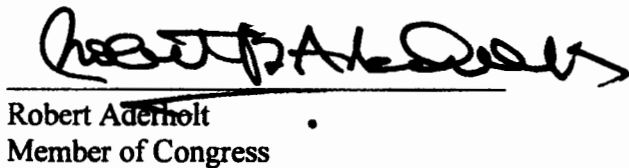
  
Pete Olson  
Member of Congress

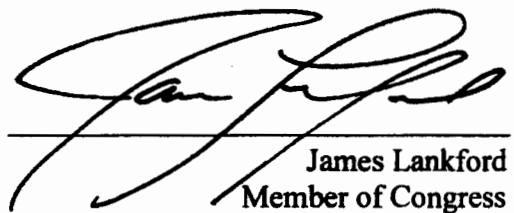
  
Robert Latta  
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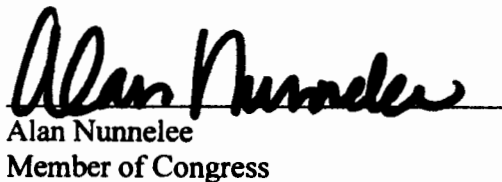
  
Jo Ann Emerson  
Member of Congress

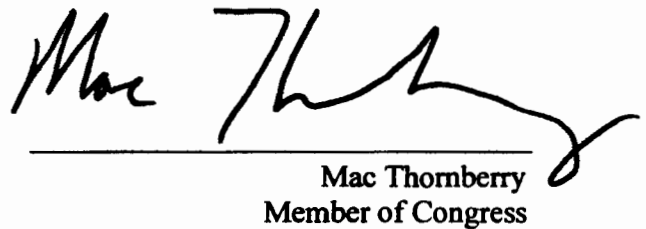
  
Mike Rogers (AL-03)  
Member of Congress

  
Jo Bonner  
Member of Congress

  
Robert Aderholt  
Member of Congress

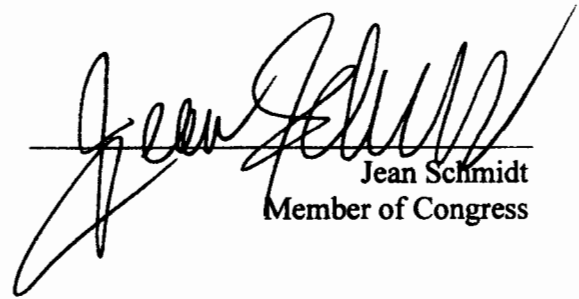
  
James Lankford  
Member of Congress

  
Alan Nunnelee  
Member of Congress

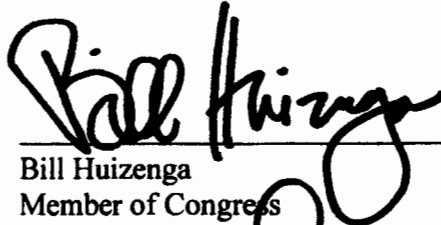
  
Mac Thornberry  
Member of Congress



Kevin Brady  
Member of Congress



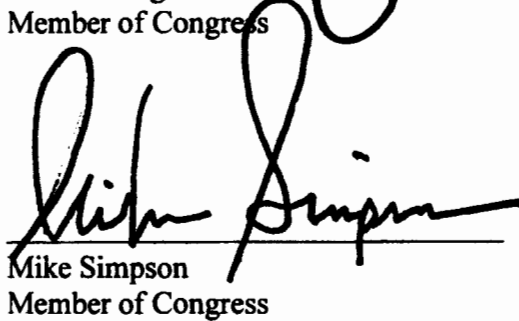
Jean Schmidt  
Member of Congress



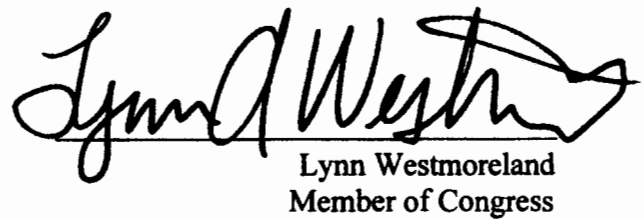
Bill Huizenga  
Member of Congress



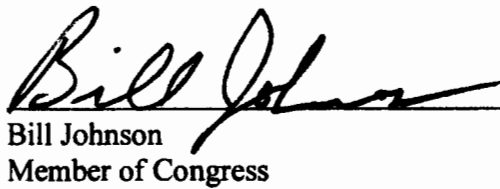
Marlin Stutzman  
Member of Congress



Mike Simpson  
Member of Congress



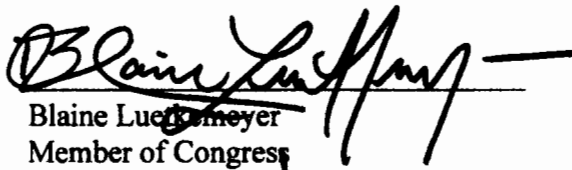
Lynn Westmoreland  
Member of Congress



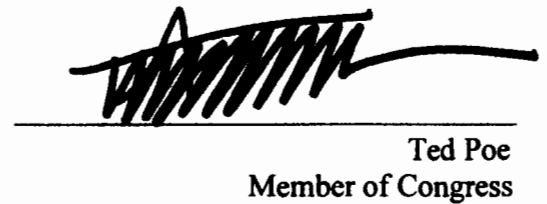
Bill Johnson  
Member of Congress



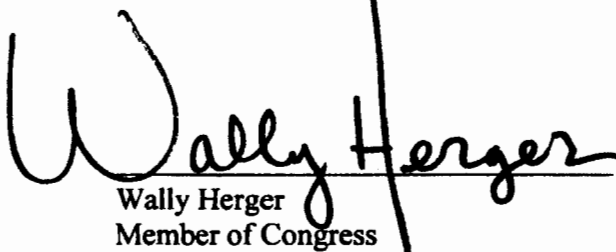
Reid Ribble  
Member of Congress



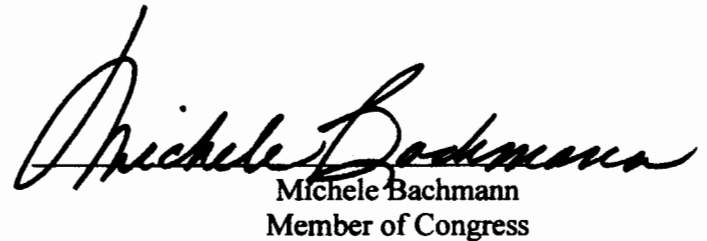
Blaine Luetkemeyer  
Member of Congress



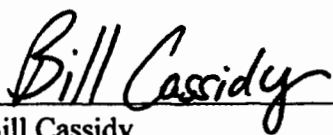
Ted Poe  
Member of Congress



Wally Herger  
Member of Congress



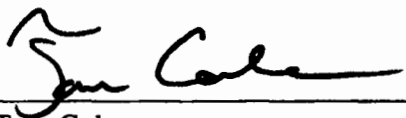
Michele Bachmann  
Member of Congress




Bill Cassidy  
Member of Congress



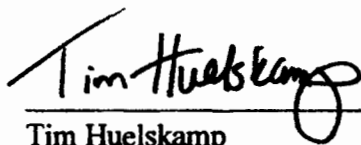
Billy Long  
Member of Congress



Tom Cole  
Member of Congress



Tim Griffin  
Member of Congress



Tim Huelskamp  
Member of Congress



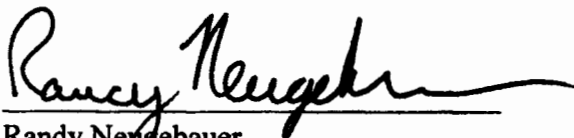
Kristi Noem  
Member of Congress




Morgan Griffith  
Member of Congress



Mike Ross  
Member of Congress




Randy Neugebauer  
Member of Congress



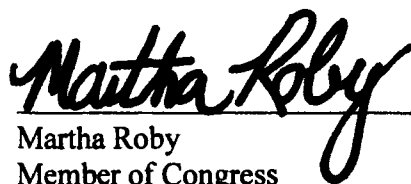
Bennie G. Thompson  
Member of Congress



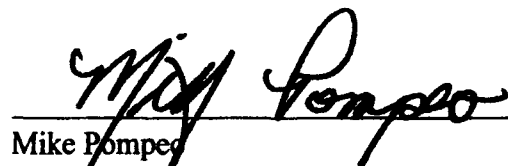
Jeff Denham  
Member of Congress




Cathy McMorris Rodgers  
Member of Congress

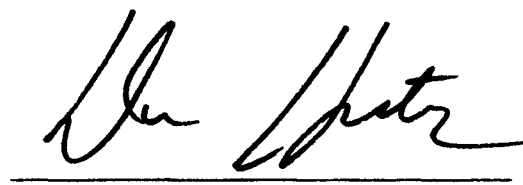
  
Martha Roby  
Member of Congress

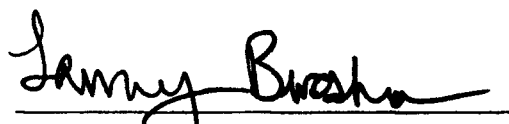
  
Todd Rokita  
Member of Congress

  
Mike Pompeo  
Member of Congress


  
Phil Gingrey  
Member of Congress

  
Adrian Smith  
Member of Congress


  
Doc Hastings  
Member of Congress

  
Larry Busch  
Member of Congress

  
Scott Garrett  
Member of Congress

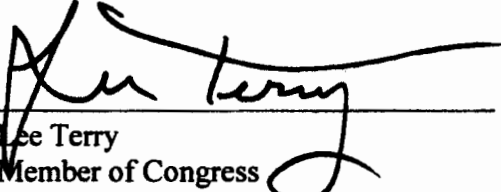
  
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Thomas Petri  
Member of Congress

  
Devin Nunes  
Member of Congress

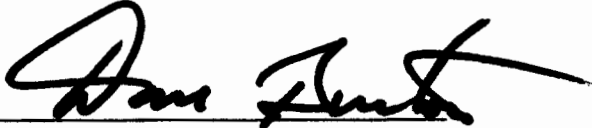
  
Howard Coble  
Member of Congress






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Lee Terry  
Member of Congress



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Dan Burton  
Member of Congress



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Joe Barton  
Member of Congress



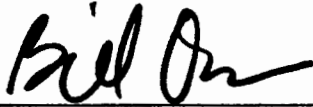
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Randy Forbes  
Member of Congress



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Dan Boren  
Member of Congress



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Bill Owens  
Member of Congress



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Ann Marie Buerkle  
Member of Congress



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Charles Boustany  
Member of Congress



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Steve Southerland  
Member of Congress



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
WASHINGTON, D.C. 20460

**OCT 12 2011**

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Jack Kingston  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Kingston:

Thank you for your letter of July 27, 2011, to the U.S. Environmental Protection Agency regarding the Spill Prevention, Control and Countermeasure (SPCC) rule. In your letter, you cited concerns with the implementation timeline for the SPCC rule for farmers and indicated that farmers need additional time to comply with the rule revisions. I understand your concerns and I appreciate the opportunity to share important information about assistance for the agricultural community.

By way of background, the SPCC rule has been in effect since 1974. The EPA revised the SPCC rule in 2002 and further tailored, streamlined and simplified the SPCC requirements in 2006, 2008 and 2009. During this time, the EPA extended the SPCC compliance date seven times to provide additional time for facility owner/operators to understand the amendments and to revise their Plans to be in compliance with the rule. The amendments applicable to farms, among other facilities, provided an exemption for pesticide application equipment and related mix containers, and clarification that farm nurse tanks are considered mobile refuelers subject to general secondary containment like airport and other mobile refuelers. In addition, the agency modified the definition of facility in the SPCC regulations, such that adjacent or non-adjacent parcels, either leased or owned by a person, including farmers, may be considered separate facilities for SPCC purposes. This is relevant because containers on separate parcels (that the farmer identifies as separate facilities based on how they are operated) do not need to be added together in determining whether they are subject to the SPCC requirements. Thus, if a farmer stores 1,320 US gallons of oil or less in aboveground containers or 42,000 US gallons or less in completely buried containers on separate parcels, they would not be subject to the SPCC requirements. (In determining which containers to consider in calculating the quantity of oil stored, the farmer only needs to count containers of oil that have a storage capacity of 55 US gallons and above.)

Your letter expresses concern about a lack of Professional Engineers (PE) available to certify SPCC Plans. However, most farmers do not need a PE to comply with the SPCC requirements. When the SPCC rule was originally promulgated in 1973, it required that every SPCC Plan be PE certified. However, the EPA amended the SPCC rule in 2006, and again in 2008, to create options to allow qualified facilities (i.e. those with aboveground oil storage capacities of 10,000 gallons or less and clean spill histories) to self-certify their Plans (no PE required) and, in some cases, complete a template that serves as the SPCC Plan for the facility. The SPCC rule requires that the owner or operator of the facility (in this case, a farm) prepare and implement an SPCC Plan. The Plan must be maintained at the location of the farm that is normally attended at least four hours per day. The EPA updated the Frequent Questions on the SPCC Agriculture webpage to include this clarification.

Additionally, during development of the SPCC amendments EPA and the U.S. Department of Agriculture (USDA) gathered information that indicated that approximately 95 percent of farms covered by the SPCC requirements are likely to qualify to self-certify their Plan—that is, no PE certification. Farmers that require the use of a PE and have difficulty finding one before the compliance date may contact the EPA Regional Administrator for the region in which they are located and request a time extension to amend and prepare an SPCC Plan.

EPA understands the issues raised by the farm community and is currently evaluating the best approach to resolve the identified issues. We are working hard to explore viable options for addressing the concerns you have raised. At a minimum, as noted above, those farmers who cannot meet the November 10, 2011, compliance date may request an extension as provided for specifically under 40 CFR 112.3 (f), which states:

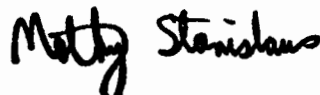
*“ Extension of time: The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment of a Plan thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to the section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees....”*

Among the options we are exploring is an appropriate and expeditious process by which such an extension could be of value in addressing the legitimate concerns raised on behalf of agricultural producers.

The Frequent Questions on the EPA's SPCC for Agriculture webpage reflect this information to ensure that farmers are aware that an extension is possible and to describe the process to request such an extension. The address for that website is [http://www.epa.gov/emergencies/content/spcc/spcc\\_ag.htm](http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm). We will continue to explore opportunities that would trigger approval of such exemption requests and will investigate mechanisms to help farmers request an extension.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We also welcome your suggestions for additional outreach and compliance assistance approaches.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, slightly slanted style.

Mathy Stanislaus  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

May 14, 2014

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear President Obama:

Thank you for releasing the *Climate Action Plan Strategy to Reduce Methane Emissions* on March 28th. We are encouraged that the Department of Energy, Department of the Interior, and Environmental Protection Agency are poised to take action to significantly reduce methane emissions from the oil and gas sector. Both the Environmental Protection Agency (EPA) and the Department of the Interior (DOI) should use their existing authority to enact policies that will decrease methane emissions across the oil and gas sector.

Curbing methane emissions will reduce harmful greenhouse gases and benefit the health of our citizens. Methane is a greenhouse gas commonly leaked and vented from oil and natural gas operations. According to EPA, methane is more than 20 times as potent as carbon dioxide. Moreover, the methane and volatile organic compounds (VOCs) emitted from oil and gas facilities can interact with sunlight to produce ozone or "smog," which has been found to trigger asthma attacks and aggravate conditions of people with bronchitis and emphysema.

The good news is that methane emissions from the oil and gas sector can be controlled with existing, cost-effective technology that is available and already being used by some operators. In February, Colorado became the first state to require such controls. Colorado's new regulations serve as a model for balanced oil and gas development, and we urge the EPA and DOI to consider similar policies to reduce such methane emissions.

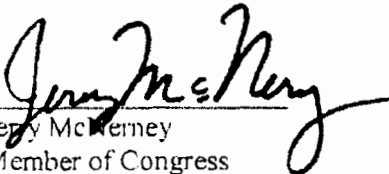
According to EPA's most recent Greenhouse Gas Inventory, the oil and gas industry emitted 8.4 million metric tons of methane in 2011, roughly equivalent to carbon emissions from 60 coal-fired power plants. In 2012, EPA updated its air pollution standards for natural gas wells; these standards will help reduce volatile organic compounds emissions and methane gas. These new standards are a laudable step, but the rule does not apply to oil wells and the agency did not address existing infrastructure that emits large quantities of methane and, in many cases VOCs and air toxics as well. We urge the EPA, acting within its existing authority, to more broadly address methane emissions from new and existing oil and gas facilities across the supply chain.

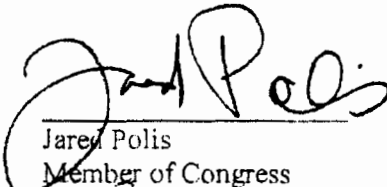
With approximately 14 percent of U.S. onshore gas production and 8.5 percent of U.S. onshore oil production taking place on federal lands, DOI is uniquely positioned to make meaningful progress in reducing emissions and minimizing waste of a natural resource. Operators on public lands regularly vent and flare methane, wasting publicly owned natural gas resources. DOI should take appropriate steps to implement "best management practices" for reducing air pollution and methane leaks at oil and gas facilities on federal lands.


The Government Accountability Office estimates that 40 percent of gas that is currently lost to the atmosphere where it fuels dangerous climate change could instead be cost-effectively captured, generating new royalties of \$23 million and cutting 16.5 million tons of CO<sub>2</sub>-e annually. These common sense steps to improve oil and gas production on federal lands benefit the environment and the taxpayer.


To enhance our nation's energy security and reliability and to protect our environment, methane emissions must be reduced. Proper oversight investments in critical infrastructure will help to achieve that goal. We appreciate your attention to this issue, and look forward to working with you as federal agencies implement their obligations under the methane strategy.


Sincerely,

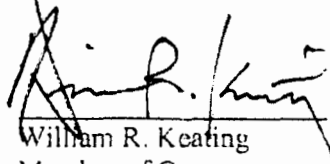
  
Jerry McNerney  
Member of Congress

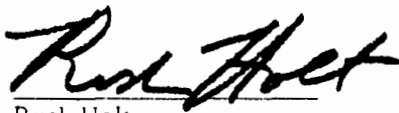
  
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Member of Congress

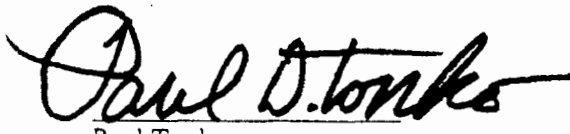
  
Peter A. DeFazio  
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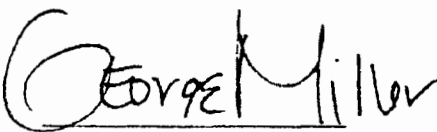
  
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Member of Congress

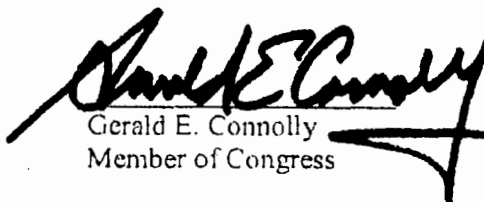
  
Zoe Lofgren  
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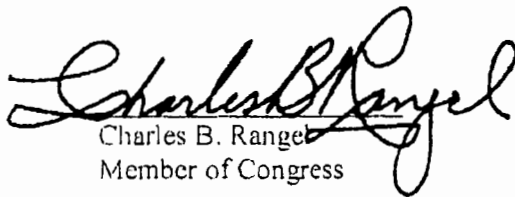
  
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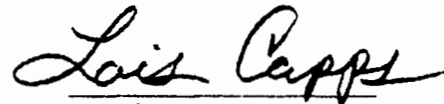
  
Rush Holt  
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Paul Tonko  
Member of Congress


  
George Miller  
Member of Congress

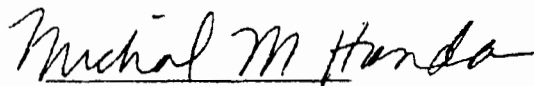
  
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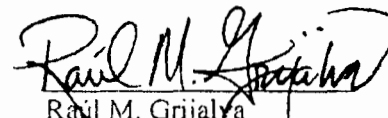
  
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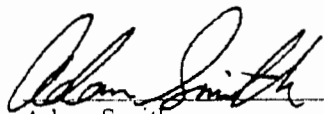
  
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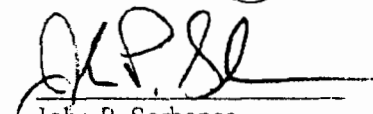
  
Anna G. Eshoo  
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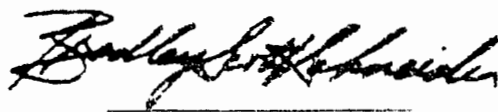
  
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Member of Congress

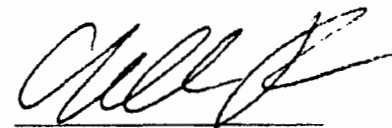
  
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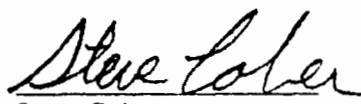
  
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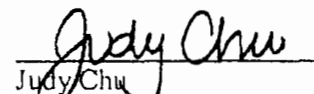
  
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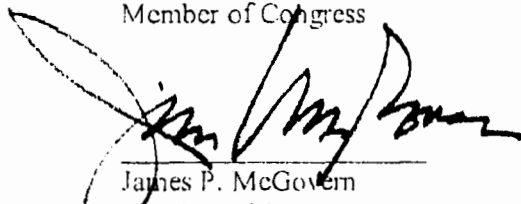
  
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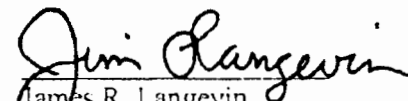
  
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Member of Congress


  
Chellie Pingree  
Member of Congress

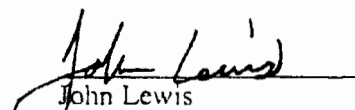
  
Steve Cohen  
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Judy Chu  
Member of Congress

  
James P. McGovern  
Member of Congress

  
James R. Langevin  
Member of Congress

  
Niki Tsongas  
Member of Congress

  
John Lewis  
Member of Congress

Alan Lowenthal

Alan S. Lowenthal  
Member of Congress

Mr Pocan

Mark Pocan  
Member of Congress

Ann McLane Kuster

Ann McLane Kuster  
Member of Congress

Adam B. Schiff

Adam B. Schiff  
Member of Congress

Michael E. Capuano

Michael E. Capuano  
Member of Congress

Matt Cartwright

Matt Cartwright  
Member of Congress

Scott Peters

Scott Peters  
Member of Congress

Katherine Clark

Katherine Clark  
Member of Congress

Allyson Y. Schwartz

Allyson Y. Schwartz  
Member of Congress

Jackie Speier

Jackie Speier  
Member of Congress

Janice D. Schakowsky

Janice D. Schakowsky  
Member of Congress

Alan Grayson

Alan Grayson  
Member of Congress

Lucille Roybal-Allard

Lucille Roybal-Allard  
Member of Congress

Julia Brownley

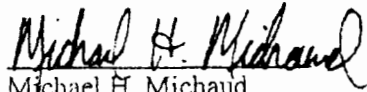
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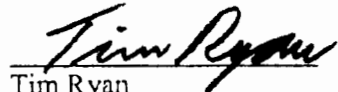
Jared Huffman


Jared Huffman  
Member of Congress

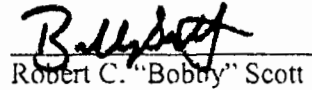
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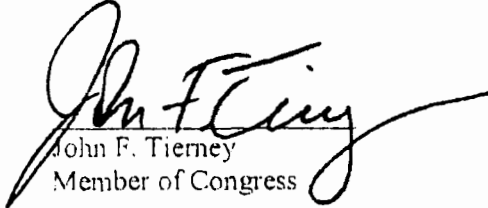
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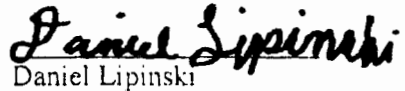
  
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Member of Congress

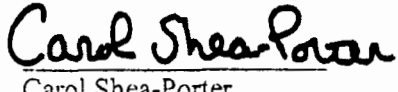
  
Tim Ryan  
Member of Congress

  
Mike Quigley  
Member of Congress

  
Robert C. "Bobby" Scott  
Member of Congress

  
John F. Tierney  
Member of Congress

  
Daniel Lipinski  
Member of Congress

  
Carol Shea-Porter  
Member of Congress

cc: Administrator Gina McCarthy  
Secretary Sally Jewell  
Secretary Ernest Moniz





NOV - 5 2014

The Honorable Jerry McNerney  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman McNerney:

Thank you for your letter dated May 14, 2014, to President Barack Obama suggesting that the U.S. Environmental Protection Agency and U.S. Department of the Interior should use their existing authorities to promulgate policies to achieve greater reductions of methane emissions from the oil and gas sector. The President asked that the EPA and the DOI respond on his behalf.

As outlined in President Obama's *Climate Action Plan, Strategy to Reduce Methane Emissions*, the EPA will deploy a carefully selected combination of policy tools to maximize cost-effective methane and volatile organic compound (VOC) reductions from the oil and gas sector.

In April 2014, EPA released a series of white papers on several potentially significant sources of methane and other emissions from the oil and gas sector, including hydraulically fractured oil wells, and solicited input from independent experts and the public. The papers focus on technical issues, covering emissions and mitigation techniques that target both VOC and methane. The EPA is currently evaluating comments on these technical documents to solidify its understanding of these potentially significant sources of methane. This robust technical understanding will allow the EPA to fully evaluate the range of policy mechanisms that will cost-effectively cut methane waste and emissions.

This fall, the EPA will determine what, if any, regulatory authorities to apply to emissions from these sources, including setting standards under section 111 of the Clean Air Act or issuing Control Techniques Guidelines under section 182 of the Act. In addition, as noted in the *Strategy*, the EPA has initiated a stakeholder feedback process and has begun working with industry and other stakeholders to expand voluntary efforts to reduce methane emissions through the Natural Gas STAR program across the supply chain.

Regarding methane capture, the DOI's Bureau of Land Management (BLM) works collaboratively with its Federal partners (including the EPA), state governments, tribal communities, and the private sector to capture more natural gas and consequently reduce methane emissions from oil and gas development on public lands. Recently, the BLM conducted a series of public outreach sessions in North Dakota, New Mexico, and Colorado to begin a dialogue with interested parties.

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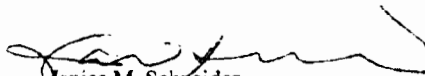
Information gathered through these efforts will be used to help inform a rulemaking that the Bureau is developing to update the Notice to Lessees and Operators No. 4A, now known as the Venting & Flaring Rule. The purpose of any new regulation that the BLM develops would be to prevent the waste of hydrocarbons, promote conservation of produced oil and gas, and ensure a fair return to the American taxpayer. These efforts would update regulations that in some cases date back to 1979.

We appreciate your interest in this important issue. If you have further questions, please contact us or your staff may contact Josh Lewis in the EPA's Office of Congressional and Intergovernmental Relations at [lewis.josh@epa.gov](mailto:lewis.josh@epa.gov) or (202) 564-2095 or BLM Legislative Affairs Division Chief Patrick Wilkinson at [p2wilkin@blm.gov](mailto:p2wilkin@blm.gov) or (202) 912-7429. A similar response is being sent to the co-signers of your letter.

Sincerely,



Janet G. McCabe  
Acting Assistant Administrator  
Office of Air and Radiation  
U.S. Environmental Protection Agency



Janice M. Schneider  
Assistant Secretary  
Land and Minerals Management  
U.S. Department of the Interior

# Congress of the United States

Washington, DC 20515

AL-16-000-7153

April 20, 2016

The Honorable Gina McCarthy  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

Dear Administrator McCarthy,

We write to you today to express our extreme concern with the Environmental Protection Agency (EPA) Region 10 funded whatsupstream.com website and campaign, which recently has come to our attention. While we appreciate EPA's recent admission that wrongdoing occurred and that the campaign should never have been federally funded,<sup>1</sup> we are still confused why EPA would have approved an award clearly violating a number of federal laws pertaining to funding propaganda, advocacy, and lobbying efforts. We find this revelation particularly disturbing, as it follows closely to both the EPA Office of Inspector General (OIG) questioning of Region 10's award monitoring and a December 2015 Government Accountability Office (GAO) report that found EPA had committed similar violations on social media advocacy campaigns supporting EPA's Waters of the United States (WOTUS) regulation (also known as the "Clean Water Rule").

As you are no doubt aware, federal law clearly directs that, "No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress."<sup>2</sup> Further restrictions clearly prohibit federal funds being used for many of the advocacy and publicity materials used by the whatsupstream.com campaign, including publications, radio, and electronic communications.<sup>3</sup> Despite this stark prohibition, the website whatsupstream.com has a button at the top of its site directing visitors to, "Take Action! We've made it simple." This button loads auto-generated text that will be sent to the visitor's respective Washington State legislators, urging the legislators to support, "stronger laws protecting the health of our water resources in Washington," by encouraging, "100-foot natural buffers between agriculture lands and streams." Additionally this site asserts that, "state government must hold the agricultural industry to the same level of responsibility as other industries...." To be clear, whatsupstream.com has a disclaimer at the bottom of its website stating, "This project has been funded wholly or in part by the United States Environmental Protection Agency." Based on our review of EPA Puget Sound Financial and Ecosystem Accounting Tracking System (FEATS) project reports, it appears that this campaign has been wholly funded by the EPA with no matching funds provided by any private or state and local government entities.<sup>4</sup>

Currently, the Washington State Department of Ecology is in the process of renewing the requirements for its National Pollutant Discharge Elimination System (NPDES) permits for Concentrated Animal Feeding Operations (CAFOs). The Washington State legislature has also considered other water quality and agricultural related legislation during this same time period. These state regulatory and legislative initiatives were pending and under consideration during the same time of the lobbying efforts funded by EPA.

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<sup>1</sup> Don Jenkins, *Capital Press*, April 5, 2016, [http://www.capitalpress.com/Nation\\_World/Nation/20160405/epas-reversal-on-whats-upstream-rings-hollow-to-ag-groups](http://www.capitalpress.com/Nation_World/Nation/20160405/epas-reversal-on-whats-upstream-rings-hollow-to-ag-groups)

<sup>2</sup> *Consolidated and Further Continuing Appropriations Act, 2013*, Public Law 113-6, 127 Stat. 269 (2013)

<sup>3</sup> *Consolidated Appropriations Act, 2014*, Public Law 113-76, 128 Stat. 408 (2014)

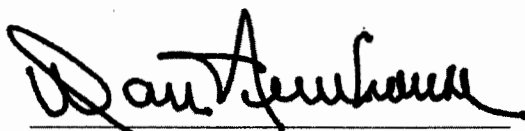
<sup>4</sup> EPA Puget Sound Financial and Ecosystem Accounting Tracking Systems, PA-00J322-01, September 30, 2015, <http://blogs.nwifc.org/psp/files/2016/02/Swinomish-FY12-4.1.15-9.30.15.pdf>

What is more disturbing is that a July 14, 2014 report by the EPA's OIG found that Region 10 EPA project officers, "emphasized overall progress rather than compliance with specific subaward requirements. This emphasis on overall progress increased the risk that project officers would not detect issues needing corrective action that might impact the project meeting its goals." The report also found that of a sample of ten different EPA subawards, only three had protocols in place to ensure 501(c)(4) subaward recipients did not engage in lobbying activities.<sup>5</sup> Despite these warning signs, an October 30, 2015 EPA Region 10 FEATS report pertaining to the *whatsupstream.com* project concluded that, "As a result of extensive review and engagement by EPA, we have been revising the website, and have to [sic] restarted media outreach."<sup>6</sup> This conclusion would seem to suggest that, even in spite of OIG's report, EPA reviewed, engaged, and approved of the current *whatsupstream.com* website that is in blatant violation of federal law.

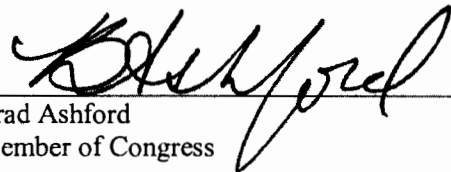
As mentioned, on December 14, 2015, GAO issued an opinion finding that EPA violated propaganda and anti-lobbying laws by using certain social media platforms in association with the WOTUS regulation. By obligating and expending appropriated funds in violation of specific prohibitions contained in appropriations acts for fiscal years 2014 and 2015, GAO found EPA also violated the *Antideficiency Act*.<sup>7</sup> The *whatsupstream.com* campaign appears to be part of an alarming trend where EPA engages in funding advocacy efforts against the very entities it is seeking to regulate. EPA cannot systematically choose when it wishes to follow the law and when it does not. Congress has made it explicitly clear that EPA's funding may not be used, "for publicity or propaganda purposes designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government."<sup>8</sup>

We are aware that Senators Inhofe and Roberts recently sent a letter to the EPA OIG requesting an official audit and investigation into the *whatsupstream.com* campaign and related activities, and the House Committee on Agriculture is conducting a related oversight investigation of EPA grant management. We fully support these requests, and strongly advise EPA's full and swift cooperation with all investigations and imminent oversight inquiries into this matter.

Sincerely,



Dan Newhouse  
Member of Congress



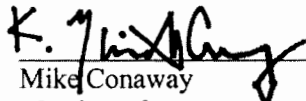
Brad Ashford  
Member of Congress

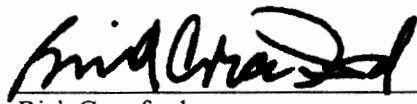
<sup>5</sup> Collins, Eileen et al., *EPA Should Improve Oversight and Assure the Environmental Results of the Puget Sound Cooperative Agreements* (EPA OIG Report No. 14-P-0317) (Washington, DC: Environmental Protection Agency Office of Inspector General, 2014), 8, <https://www.epa.gov/sites/production/files/2015-09/documents/20140715-14-p-0317.pdf>

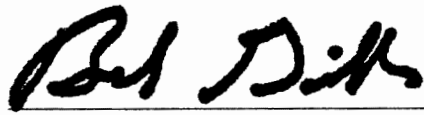
<sup>6</sup> EPA Puget Sound Financial and Ecosystem Accounting Tracking Systems, PA-00J322-01, October 30, 2015, <http://blogs.nwifc.org/psp/files/2016/02/Swinomish-FY13-4.1.15-9.30.15.pdf>


<sup>7</sup> Poling, Susan A., *Environmental Protection Agency--Application of Publicity or Propaganda and Anti-Lobbying Provisions* (B-326944) (Washington, DC: U.S. Government Accountability Office, 2015), <http://www.gao.gov/assets/680/674163.pdf>

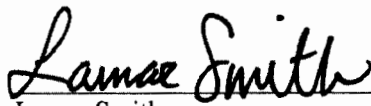
<sup>8</sup> *Consolidated and Further Continuing Appropriations Act, 2015*, Public Law 113-235, 128 Stat. 2393 (2014)

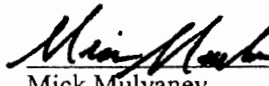
  
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Member of Congress

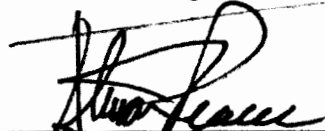
  
Rick Crawford  
Member of Congress


  
Bob Gibbs  
Member of Congress

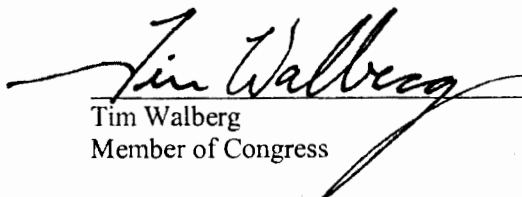
  
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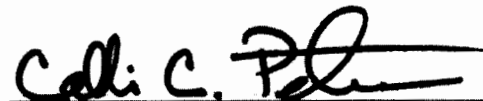
  
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Member of Congress

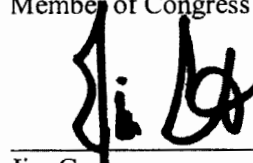
  
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Member of Congress

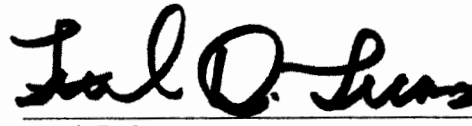
  
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Member of Congress

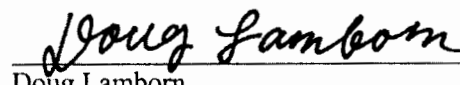
  
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Member of Congress

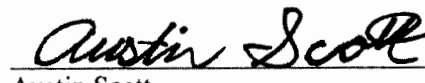
  
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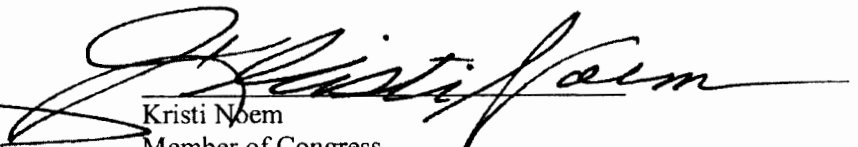
  
Collin C. Peterson  
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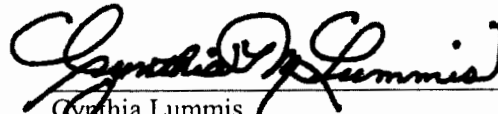
  
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Member of Congress

  
Frank D. Lucas  
Member of Congress

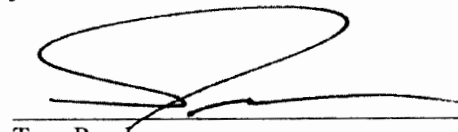
  
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Member of Congress

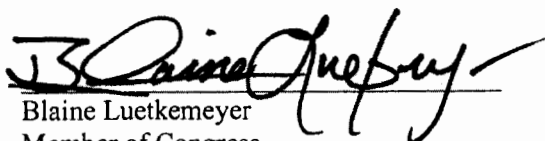
  
Austin Scott  
Member of Congress

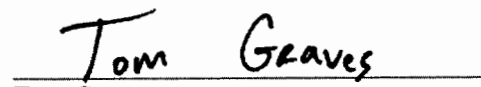
  
Kristi Noem  
Member of Congress

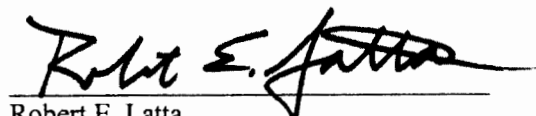
  
Cynthia Lummis  
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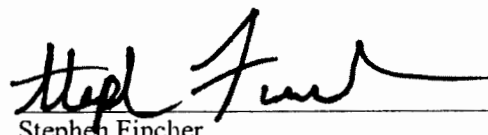
  
Trent Franks  
Member of Congress


  
Tom Reed  
Member of Congress


  
Blaine Luetkemeyer  
Member of Congress

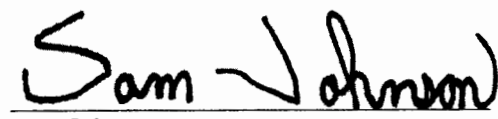
  
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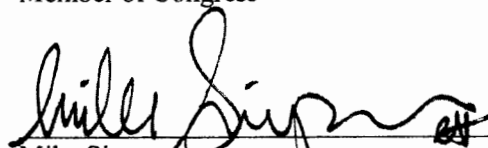
  
Robert E. Latta  
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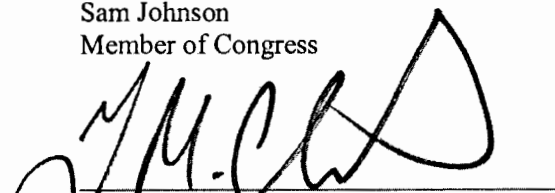
  
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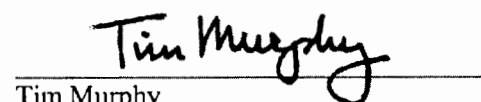
  
Darin LaHood  
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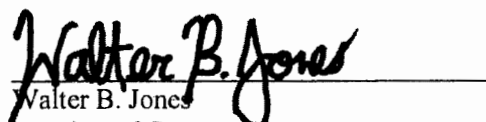
  
Dana Rohrabacher  
Member of Congress


  
Sam Johnson  
Member of Congress

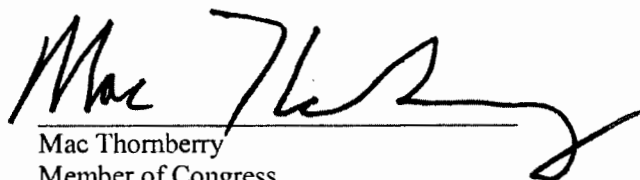
  
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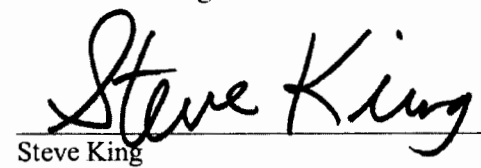
  
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Member of Congress

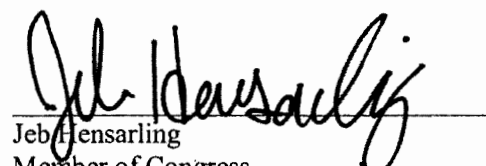
  
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Member of Congress

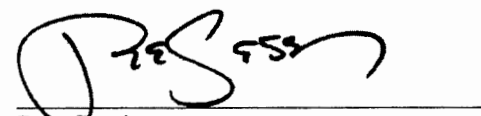
  
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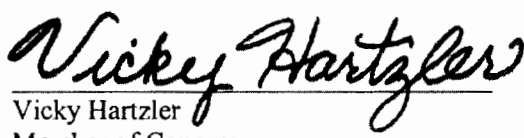
  
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Mac Thornberry  
Member of Congress

  
Steve King  
Member of Congress

  
Jeb Hensarling  
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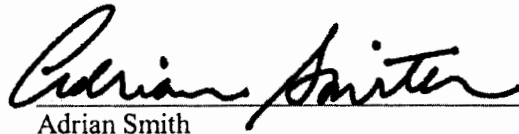
  
Pete Sessions  
Member of Congress

  
Vicky Hartzler  
Member of Congress


  
Jason Chaffetz  
Member of Congress



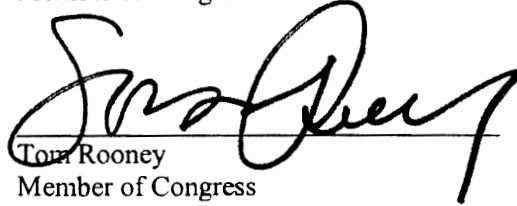
Michael R. Turner  
Member of Congress



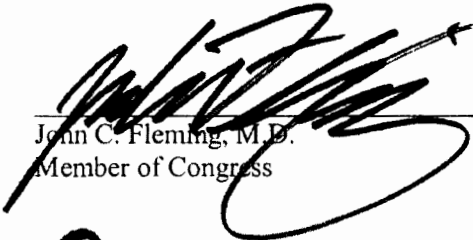
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Member of Congress



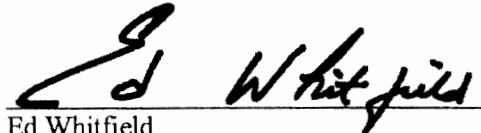
Marsha Blackburn  
Member of Congress



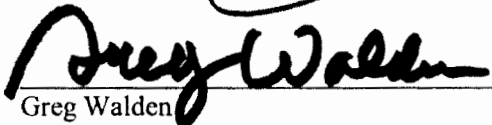
Tom Rooney  
Member of Congress



John C. Fleming, M.D.  
Member of Congress



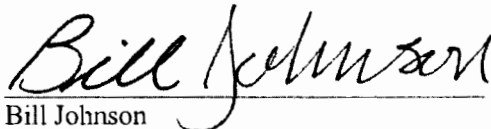
Ed Whitfield  
Member of Congress



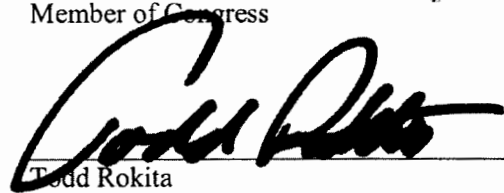
Greg Walden  
Member of Congress



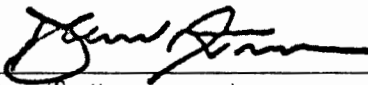
Chris Gibson  
Member of Congress



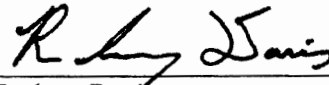
Bill Johnson  
Member of Congress



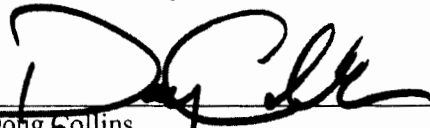
Todd Rokita  
Member of Congress



Dave Trott  
Member of Congress



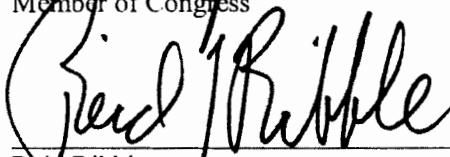
Rodney Davis  
Member of Congress



Doug Collins  
Member of Congress



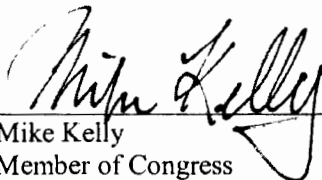
Susan Brooks  
Member of Congress



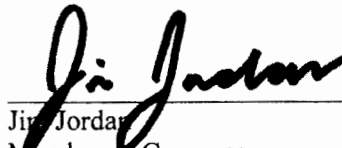
Reid Ribble  
Member of Congress



Lee Zeldin  
Member of Congress



Mike Kelly  
Member of Congress



Jim Jordan  
Member of Congress

Raúl R. Labrador

Raúl R. Labrador  
Member of Congress

Lynn Jenkins

Lynn Jenkins  
Member of Congress

Billy Long

Billy Long  
Member of Congress

Sam Graves

Sam Graves  
Member of Congress

Randy Neugebauer

Randy Neugebauer  
Member of Congress

Charles Boustany

Charles Boustany  
Member of Congress

Andy Barr

Andy Barr  
Member of Congress

Mike Bost

Mike Bost  
Member of Congress

Brad Wenstrup

Brad Wenstrup  
Member of Congress

Keith Rothfus

Keith Rothfus  
Member of Congress

Sean Duffy

Sean Duffy  
Member of Congress

Renee Ellmers

Renee Ellmers  
Member of Congress

French Hill

French Hill  
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Mo Brooks

Mo Brooks  
Member of Congress

Morgan Griffith

Morgan Griffith  
Member of Congress

Tim Huelskamp

Tim Huelskamp  
Member of Congress

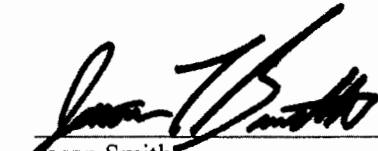
Markwayne Mullin

Markwayne Mullin  
Member of Congress

Chris Collins

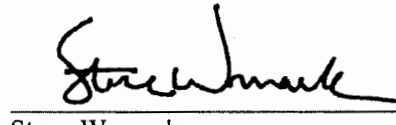
Chris Collins  
Member of Congress






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Jason Smith  
Member of Congress




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Steve Womack  
Member of Congress



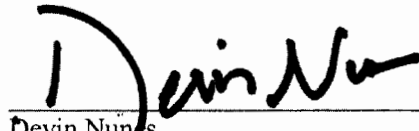
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Jaime Herrera Beutler  
Member of Congress



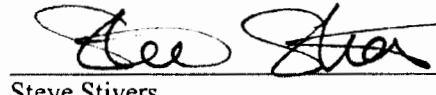
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David G. Valadao  
Member of Congress



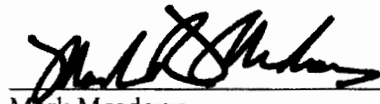
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Devin Nunes  
Member of Congress



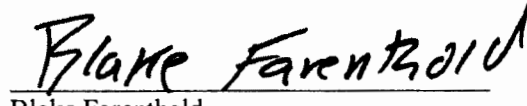
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Steve Stivers  
Member of Congress



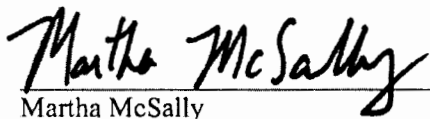
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Mark Meadows  
Member of Congress




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Blake Farenthold  
Member of Congress



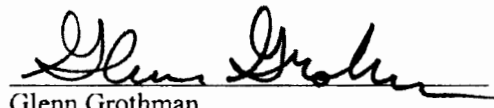
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Martha McSally  
Member of Congress



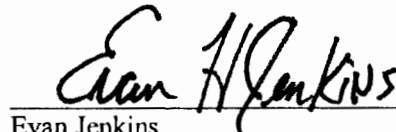
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Kevin Cramer  
Member of Congress



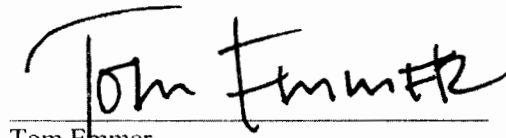
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Glenn Grothman  
Member of Congress



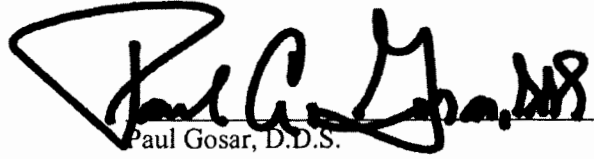
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Evan Jenkins  
Member of Congress




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Tom Emmer  
Member of Congress



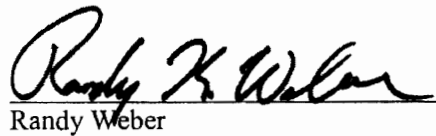
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Paul Gosar, D.D.S.  
Member of Congress



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Luke Messer  
Member of Congress



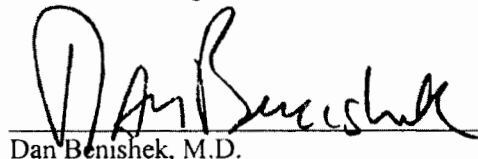
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Randy Weber  
Member of Congress



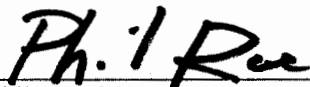
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Ted S. Yoho, DVM  
Member of Congress



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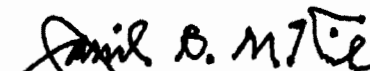
Dan Benishek, M.D.  
Member of Congress



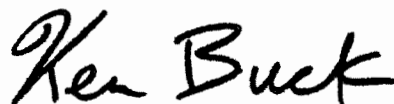
Phil Roe, M.D.  
Member of Congress



Scott DesJarlais, M.D.  
Member of Congress



David B. McKinley, P.E.  
Member of Congress



Ken Buck  
Member of Congress



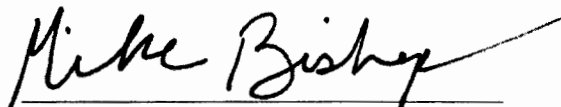
Ralph Abraham, M.D.  
Member of Congress



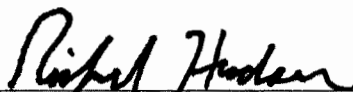
Jackie Walorski  
Member of Congress



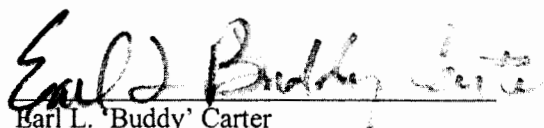
David Rouzer  
Member of Congress



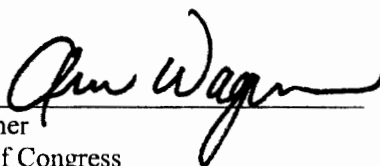
Mike Bishop  
Member of Congress



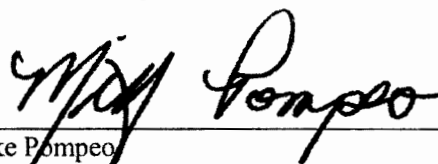
Richard Hudson  
Member of Congress



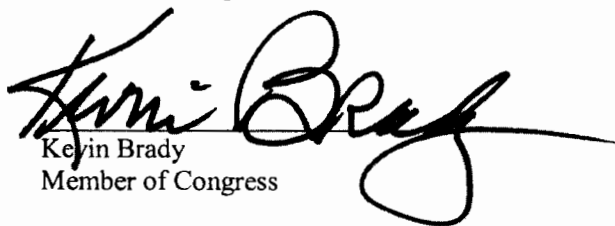
Earl L. 'Buddy' Carter  
Member of Congress



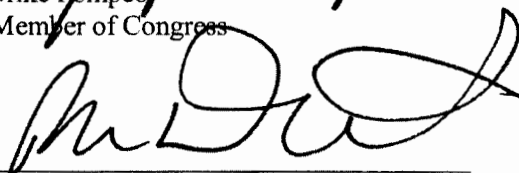
Ann Wagner  
Member of Congress



Mike Pompeo  
Member of Congress



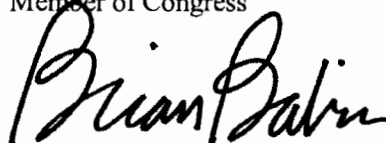
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Member of Congress



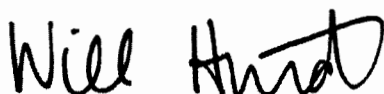
Ron DeSantis  
Member of Congress



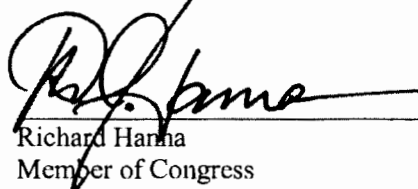
Mark Walker  
Member of Congress



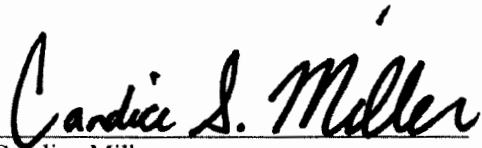
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Member of Congress



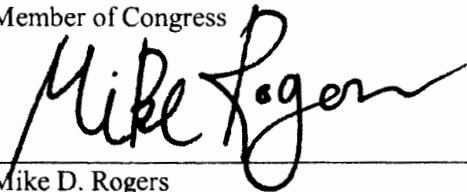
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Member of Congress



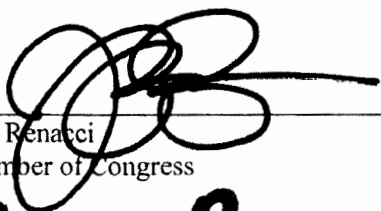
Richard Hanna  
Member of Congress



Candice Miller  
Member of Congress



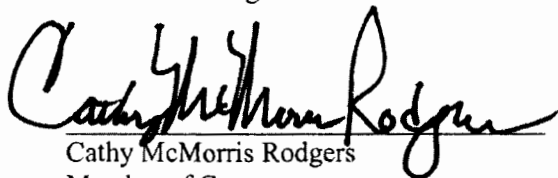
Mike D. Rogers  
Member of Congress



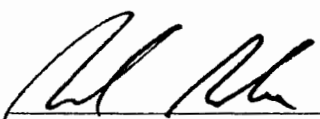
Jim Renacci  
Member of Congress



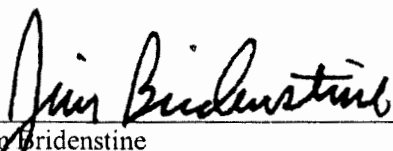
Steven Palazzo  
Member of Congress



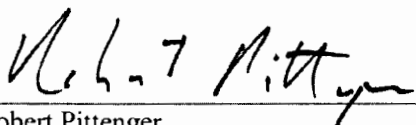
Cathy McMorris Rodgers  
Member of Congress



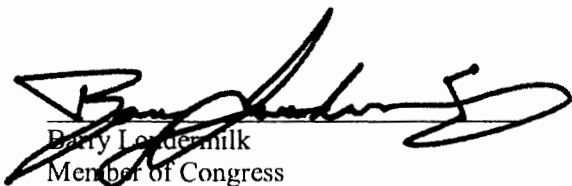
Rod Blum  
Member of Congress



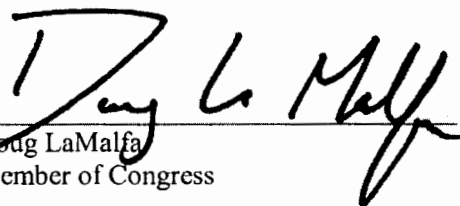
Jim Bridenstine  
Member of Congress



Robert Pittenger  
Member of Congress




Barry Loudermilk  
Member of Congress



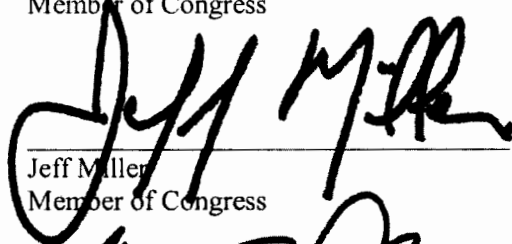
Doug LaMalfa  
Member of Congress



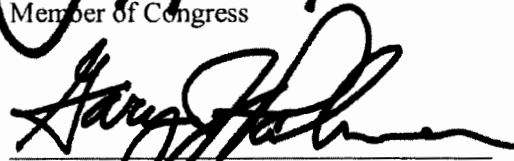
John Ratcliffe  
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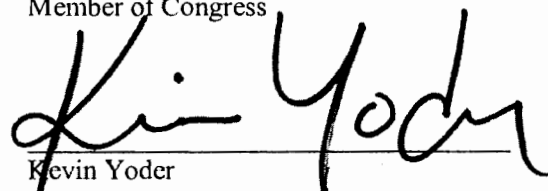
Dave Brat  
Member of Congress



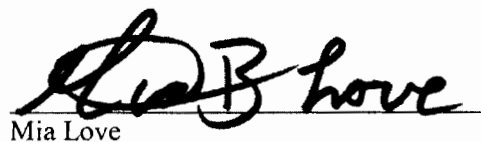
Jeff Miller  
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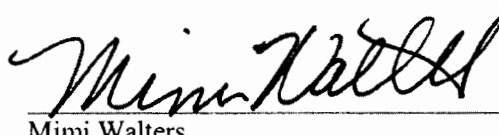
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Member of Congress



Kevin Yoder  
Member of Congress



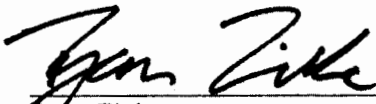
Mia Love  
Member of Congress



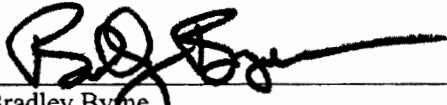
Mimi Walters  
Member of Congress



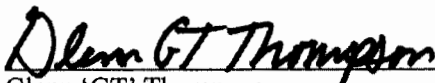
Jeff Duncan  
Member of Congress



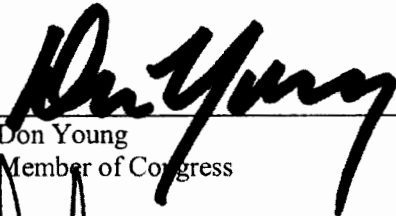
Ryan Zinke  
Member of Congress



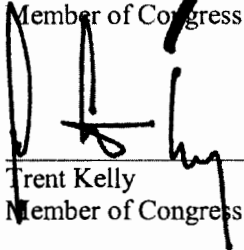
Bradley Byrne  
Member of Congress



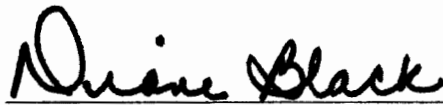
Glenn 'GT' Thompson  
Member of Congress



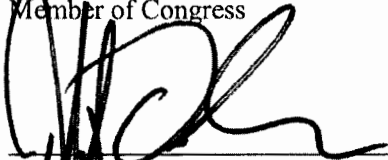
Don Young  
Member of Congress



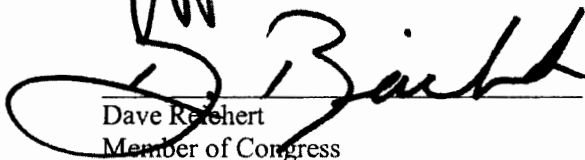
Trent Kelly  
Member of Congress



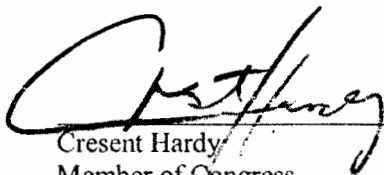
Diane Black  
Member of Congress



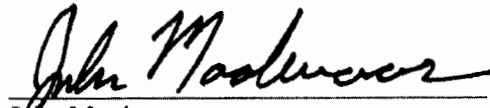
Jeff Blum  
Member of Congress



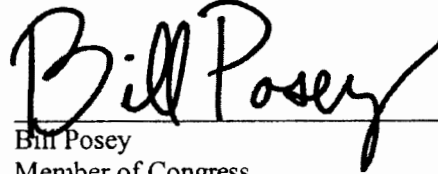
Dave Reichert  
Member of Congress



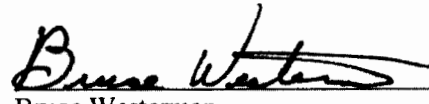
Crescent Hardy  
Member of Congress



John Moolenaar  
Member of Congress



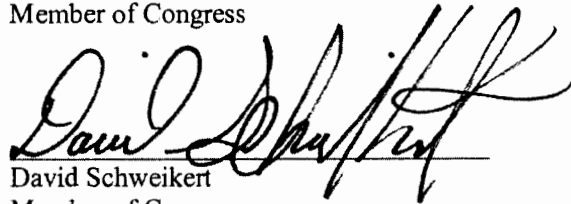
Bill Posey  
Member of Congress



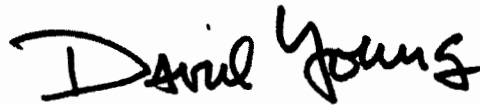
Bruce Westerman  
Member of Congress



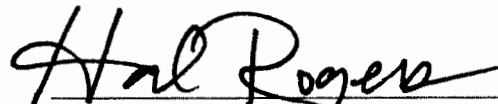
Tom Cole  
Member of Congress



David Schweikert  
Member of Congress



David Young  
Member of Congress



Harold Rogers  
Member of Congress



Bill Flores  
Member of Congress

cc: Mr. Gene Dodaro, Comptroller General, U.S. Government Accountability Office  
Mr. Arthur Elkins, Jr., Inspector General, Environmental Protection Agency



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

1200 Sixth Avenue, Suite 900  
Seattle, WA 98101-3140

OFFICE OF THE REGIONAL  
ADMINISTRATOR

**JUN 23 2016**

The Honorable Dan Newhouse  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Brad Ashford  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Newhouse and Representative Ashford:

Thank you for your April 20, 2016, letter to United States Environmental Protection Agency Administrator Gina McCarthy regarding the EPA's Cooperative Agreement with the Northwest Indian Fisheries Commission and a sub-award made under that Cooperative Agreement by NWIFC to the Swinomish Indian Tribal Community for a "Non-Point Pollution Public Information and Education Initiative." The Administrator asked that I respond on her behalf.

The EPA places a high value on collaboration with our partners in the agricultural and tribal communities. We are particularly proud of the work we've done in the Pacific Northwest with the agriculture community and the tribes in seeking -- and frequently finding -- common ground on issues such as water quality monitoring, scientific research and uplands restoration projects.

Puget Sound in northwest Washington is an estuary of national significance under the U.S. Clean Water Act National Estuary Program. The EPA provides expertise and financial assistance to state, local and tribal governments to support research and restoration projects that help implement the State of Washington's Puget Sound Action Agenda. This Action Agenda serves as the state's Comprehensive Conservation and Management Plan required under the Clean Water Act National Estuary Program.

In support of the Action Agenda, EPA Region 10 awarded a cooperative agreement to the NWIFC in 2010, to support the work of 21 federally recognized Puget Sound tribes and tribal consortia who implement protection and restoration projects consistent with the Puget Sound Action Agenda. The Swinomish Tribe is one of the sub-recipients and, accordingly, received annual incremental funding for an education and outreach project focused on the critical need to reduce non-point source water pollution to protect Puget Sound water quality and critical salmon habitat. Four Pacific salmon species in Puget Sound are listed as threatened under the Endangered Species Act, in turn threatening the treaty-reserved rights of many Puget Sound tribes to harvest this natural resource so central to their communities, economies, and cultures.

The Swinomish Tribe's project included building a public information and awareness website. The EPA engaged with the Commission and the Swinomish Tribe over the past five years to discuss proposed annual work plans and some specific tasks such as the website. EPA has provided technical assistance and coordination in the form of comments and recommendations. However, a cooperative agreement is fundamentally different from a contract and the EPA does not have the ability to direct the content of the

work product of a grantee or sub-recipient in the same manner as a contractor. In addition, under the terms of the cooperative agreement, the Commission has the responsibility of monitoring sub-recipients' performance and ensuring compliance with applicable terms and conditions, regulations, and statutes. The EPA's involvement in the sub-recipient's project has focused on providing technical input during routine proposal reviews and flagging potential areas of non-compliance with grant terms and conditions, laws, regulations and policies. For example, the EPA has provided advice to the Commission and the Swinomish Tribe regarding the lobbying restrictions applicable to grants.

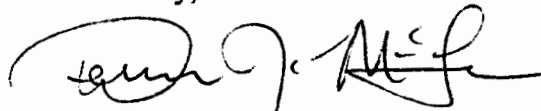
The EPA takes the concerns that have been expressed by members of Congress and other parties very seriously. In an April 18, 2016, letter (enclosed), the EPA asked the Commission to suspend all expenditures under the sub-award to the Swinomish Tribe and requested the Commission conduct a review of its sub-award to the Tribe. During a meeting on April 25, 2016, the Commission confirmed that all advertising related to the sub-award had stopped, and costs related to billboards have not and will not be paid with funding Congress appropriates to the EPA. The Commission is continuing its assessment of the sub-award in relationship to EPA grant policies, terms, and conditions, and will be setting up a meeting between the EPA, the Commission, and the Swinomish Tribe to review the results.

I want to assure you that collaboration with our partners in the agricultural community is of great importance to the EPA. To exemplify our efforts regarding work with the agricultural community, in the past three years over \$12 million of EPA funds have been used to support collaboration with agriculture partners in Puget Sound to restore and protect riparian habitat and to reduce non-point source pollution.

The 2014 OIG report cited in your letter concluded, "...that EPA Region 10 is effectively administering cooperative agreements and monitoring project progress to determine whether proposed outputs and outcomes were achieved" (OIG, Report 14-P-0317, At a Glance, July 15, 2014). The OIG provided several recommendations, which EPA has addressed. We continue to provide strong oversight of the grants funded through the Puget Sound program.

Again, thank you for your interest in the EPA's grant activities. If you have any further questions, please contact me, or your staff may contact Kyle Aarons, in the EPA's Office of Congressional and Intergovernmental Relations at [aarons.kyle@epa.gov](mailto:aarons.kyle@epa.gov) or (202) 564-7351.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. McLerran", with a stylized flourish at the end.

Dennis J. McLerran  
Regional Administrator

Enclosure